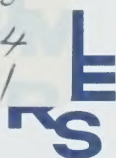


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ONTARIO MUNICIPAL EMPLOYEES RETIREMENT SYSTEM

Working
together
for your
retirement

OMERS Act and Regulation

Annotated, Unofficial Version

June 1994

OMERS ACT AND REGULATION

This office consolidation of the OMERS Act and Regulation has been prepared for ease of use. It contains titles and comments not found in the official Act and Regulation.

It is not, nor does it purport to be, the official OMERS Act and Regulation and no risk or liability because of its use is assumed by the OMERS Board or staff.

Includes amendments made:

December 1991,

December 1992,

April 1993 (Downsizing), and

January 1994 (Social Contract/Ad hoc increases)




June, 1994

OMERS ACT AND REGULATION (Annotated)

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THE ONTARIO MUNICIPAL EMPLOYEES RETIREMENT SYSTEM ACT

DEFINITIONS

1. In this Act,

“approved pension plan” means a pension plan that has been established by a municipality or local board under any general or special Act;

“benefit” means a pension, refund or other payment that may be payable in accordance with the regulations to or with respect to a member;

“Board” means the Ontario Municipal Employees Retirement Board;

“councillor” means a person who is a member of a council of a municipality;

“earnings” in the case of an employee who is a member, means the salary or wages paid to him by an employer including the value of any perquisites received from an employer and, in the case of a councillor who is a member, means any money paid to the councillor for his or her services as a councillor under the *Municipal Act* or under any Act establishing a metropolitan, regional or district municipality;

“employee” means any person who is employed by an employer, but does not include any person who contributes to a pension plan under the *Public Service Pension Act* or the *Teachers’ Pension Act*;

“employer” means a municipality or local board or an association of municipalities or local boards or of their officials or employees designated by the Lieutenant Governor in Council as an employer under this Act or the Province of Ontario in respect of a member who is not eligible to contribute under the *Public Service Pension Act* or the *Teachers’ Pension Act*;

“Fund” means the Ontario Municipal Employees Retirement Fund;

“local board” means a local board as defined in the *Municipal Affairs Act*, excluding a hospital board established under any general or special Act that operates a public hospital on behalf of a municipality, and includes an agency of the Crown designated by the Lieutenant Governor in Council and the Board;

“member” means a person who has become a member of the System;

“Minister” means the Minister of Municipal Affairs;

“municipality” includes a metropolitan, regional and district municipality;

“optional service” means,

- (a) service with any municipality or local board in Canada,
- (b) service with the civil service of Canada or of any province of Canada,
- (c) service with the staff of any board, commission or public institution established under any Act of Canada or any province of Canada,
- (d) service with any other organization which was not an employer under this Act and which has been merged or amalgamated with or otherwise taken over by an organization named in subclause (a), (b), or (c), or
- (e) war service;

“pension” means an amount that is payable at periodic intervals in accordance with the Regulations;

“prior service” means the service of an employee or councillor before the date upon which this Act and the Regulations become applicable to the employer;

“regulations” means the Regulations made under this Act;

“service” means service rendered to an employer or to a predecessor thereof by an employee or councillor, as the case may be, for which earnings are received and, for purposes of supplementary benefits, may include optional service;

“spouse” has the same meaning as in the *Pension Benefits Act*;

“supplementary benefit” means a benefit in addition to the benefit to which a member or the widow, widower, child, beneficiary or estate of the member is entitled by reason of his or her membership in the System;

“surplus” has the same meaning as in the *Pension Benefits Act*;

“System” means the Ontario Municipal Employees Retirement System;

“war service” means active service during World War II or the Korean War,

- (a) in His or Her Majesty's naval, army or air forces or in the Canadian or British Merchant Marine, or
- (b) in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by the Lieutenant Governor in Council,

providing satisfactory proof of such service is produced;

“widow” or **“widower”** means the person who was the spouse of a member immediately before the member's death.

2. *Revoked. Gave Board power to determine the widow / widower.*

AUTHORITY TO OPERATE AND BOARD POWERS

- | | |
|-------------------------------------|--|
| System authority | 3. The System is continued under the name Ontario Municipal Employees Retirement System in English and Régime de retraite des employés municipaux de l'Ontario in French. |
| Board authority
as a corporation | <p>4. (1) The Ontario Municipal Employees Retirement Board is continued as a corporation, under the name Ontario Municipal Employees Retirement Board in English and Commission du régime de retraite des employés municipaux de l'Ontario in French, and the management and administration of the System are vested in the Board.</p> <p>(2) The remuneration of the members of the Board shall be as recommended by the Board and approved by the Minister.</p> |
| Staff and advisors | (3) The Board shall appoint or cause to be appointed such officers, employees, legally qualified medical practitioners and advisers as are necessary to carry out the responsibilities of the Board and shall appoint an auditor and an actuary and determine the remuneration of all such persons. |
| Committees | <p>(4) The Board may establish committees and may delegate to the committees any of the Board's powers under this Act.</p> <p>(5) The Board may determine the composition, duties, responsibilities, limitations and operating procedures of its committees and the term of office of committee members.</p> |

	(6) The Board may appoint individuals other than members of the Board to its committees and determine their remuneration.
Delegation authority	(7) The Board may make rules and regulations for the management and administration of the System and may assign to the persons mentioned in subsection (3) such of its duties as it decides are necessary or desirable.
Annual report	(8) The Board shall, after the close of each fiscal year, make a report upon its affairs during the preceding year to the Minister, and every such report shall contain a financial statement certified by the auditor, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session, or, if not, at the next session.
Liability of Board members and staff	(9) No action or other proceeding shall be instituted against a member of the Board or an employee of the Board for any act done in good faith in the execution or intended execution of the person's duty under this Act or the Regulation or for any alleged neglect or default in the execution in good faith of the person's duty.

THE FUND

Authority to operate	5. (1) The Ontario Municipal Employees Retirement Fund is continued for the payment of pension benefits to members, their widows, widowers and children, in accordance with the Regulations.
Composition	<p>(2) The Fund shall include the cash, investments and other assets and the liabilities and the reserves of the Board.</p> <p>(3) The contributions of the employers and of the members, the income from investments plus profits less losses on the sale of investments and any other credits of the Board shall be deposited in the Fund.</p> <p>(4) The benefits and the expenses of the Board shall be paid out of the Fund.</p>
Audit	6. The auditor appointed by the Board shall audit the transactions of the Board and shall make a report to the Board on the annual financial statement of the Fund and shall state in his report whether in his opinion the annual financial statement presents fairly the financial position of the Fund and the results of its operation for the year.

ACTUARIAL VALUATION

7. (1) The actuary appointed by the Board shall make an actuarial study and valuation of the assets and liabilities of the Fund as required by the Board, but not less frequently than at three-year intervals, and shall report thereon to the Board and shall make such recommendations to the Board as the actuary considers advisable for the proper management and administration of the System.
- (2) The report to the Board shall include a statement of the actuarial assumptions used by the actuary in the preparation of the valuation mentioned in subsection (1).

THE FUND (cont.)

8. The Board shall invest the Funds in accordance with the *Pension Benefits Act*.

OMERS EXCLUSIVITY

OMERS is the only pension plan available to eligible employers

9. (1) Notwithstanding any general or special Act, an employer shall not make a contribution for the provision of a pension to an employee unless the contribution is made,
 - (a) under this Act or the *Canada Pension Plan*; or
 - (b) under an approved pension plan in respect of an employee who became employed by the employer before the 1st day of July, 1965, provided that such plan was in effect on such day and the contribution is in respect of service of the employee before he or she becomes entitled to be a member under the Regulations.
- (2) If an employer is required to make contributions to an approved pension plan under the terms of a bargaining agreement with respect to any employees and to persons who may become employees, the date the agreement is terminated or the 1st day of July, 1968, whichever is earlier, shall be substituted for the 1st day of July, 1965, in subsection (1) as it applies to such employees or persons.

CONTRIBUTIONS

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| Member | 10. The contributions of the members shall be as prescribed in the Regulations. |
| Employer - residual obligation (see also Act 14(g)) | 11. The contributions of the employers who participate in the System shall be such an amount as is required, in addition to the contributions of the members and the interest earned by the Fund, to provide for the payment of the benefits and the expenses under the Regulations. |
| No assignment or garnishment | 12. Sections 66 and 67 of the <i>Pension Benefits Act</i> , and the regulations made in relation to those sections apply to benefits payable under this Act. |
| Recoverable funds | 13. Any sum the payment of which has not been made by an employer as required in the regulations is a debt recoverable from the employer by the Board in a court of competent jurisdiction. |

REGULATION AUTHORITY

- 14.** The Lieutenant Governor in Council may make Regulations,

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| Board composition | (a) prescribing the composition of the Board and the appointment of the members of the Board; |
| Administration | (b) governing the operation and administration of the Board including the powers and duties of the officers and employees of the Board; |
| | (c) governing the administration of the Fund including the receipt, deposit and payment of all money of the Fund, the receipt, safekeeping and delivery of securities of the Fund, the borrowing of such sums as are necessary and the procedures for the determination of benefits; |
| Employers must remit contributions and information | (d) requiring participating employers to pay to the Fund the contributions of employers and members and to pay interest at a prescribed rate on amounts of contributions that are overdue and unpaid, and to furnish information to the Board; |
| Securities in lieu of cash - for prior service or merger | (e) authorizing the Board to accept securities or any class thereof from participating employers as a payment on account of contributions in respect of prior service, and to determine the price of the securities; |
| Participation and membership | (f) providing for the participation of employers and for the membership of employees and councillors in the System, and the terms and conditions upon which such participation and membership are permitted; |

Contributions	(g) prescribing the rates of contributions of the members and employers and the principles for the determination of the rates of contributions of the members and employers;
Benefits	<p>(h) providing for and defining,</p> <p style="padding-left: 40px;">(i) a normal retirement pension,</p> <p style="padding-left: 40px;">(ii) a disability retirement pension,</p> <p style="padding-left: 40px;">(iii) a pension to the widow, widower or children,</p> <p style="padding-left: 40px;">(iv) a deferred pension,</p> <p style="padding-left: 40px;">(v) an early retirement pension,</p> <p style="padding-left: 40px;">(vi) a refund of the member's contributions, plus interest thereon,</p> <p>and prescribing the terms and conditions upon which such benefits shall be paid, and for giving such terms and conditions retroactive effect in cases considered appropriate;</p>
Supplementary benefits	(i) providing for supplementary benefits and prescribing the terms and conditions upon which such supplementary benefits may be provided;
Transfers	(j) providing for the transfer from or to the Fund of a pension entitlement;
Prior service	(k) prescribing the terms and conditions upon which pensions in respect of prior service may be provided;
Pension terms and conditions	(l) prescribing the terms and conditions upon which pensions and increases in pensions for retired employees, their widows, widowers and children may be provided;
Duties of employers and members	(m) prescribing the duties of employers and of members with respect to the System;
Approved Plan duties and liabilities	(n) prescribing the duties and liabilities of members and their employers with respect to contributions and rights of members and employers under approved pension plans;
Benefits for absences	(o) prescribing the terms and conditions upon which members may accumulate pension benefits while absent from duty;

Basket clause	(p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
Surplus	(q) prescribing the terms and conditions upon which surplus may be paid from the Fund;
Wind-up	(r) prescribing the method of allocation of the assets of the Fund if the Fund is discontinued or terminated;
Funding supplementary benefits (put in for RCAs)	(s) providing for the funding of supplementary benefits through the Fund.

PARTICIPATION IN OMERS

Right by by-law or resolution	15. (1) An employer may by by-law or resolution participate in the System and pay to the Fund the total of the employer and member contributions, and has all of the powers necessary and incidental thereto.
Employees and/or councillors	(2) Participation in the System by a municipality may be in respect of both councillors and employees or in respect of either of them.
Board sets rules for opting-out	(3) No by-law or resolution made under subsection (1) shall be repealed or revoked except upon such terms as may be established by the Board.

MANAGEMENT AGREEMENTS

Authority	16. (1) The Board may, with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any pension plan or fund to which the other provisions of this Act do not apply and to recover the cost of such administration from such plan or fund.
Investment	(2) Money accumulated from time to time in a pension plan or fund mentioned in subsection (1), which is not required for the current expenditures of such plan or fund, may be deposited in the Fund.
Return on assets	(3) The return to be credited by the Fund to a pension plan or fund mentioned in subsection (1) shall be as provided for in an agreement mentioned in subsection (1).

SURPLUS

PBA requirement	17. Surplus may be paid from the Fund in accordance with such conditions as may be prescribed by the Regulations and subject to the limitations of the <i>Pension Benefits Act</i> .
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OMERS REGULATION 890
(Annotated)

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GENERAL INTERPRETATION (DEFINITIONS)

1. In this Regulation,

“**actuarial equivalent**” means of equal value according to the actuarial assumptions prescribed by the actuary;

“**actuary**” means the actuary appointed by the Board;

“**beneficiary**” means a beneficiary designated under this Regulation;

“**continuous service**” means unbroken service, and such service shall be deemed not to be broken by,

Different credited service periods are joined

(a) a period between employment by one participating employer and employment by another or the same participating employer if the member has not received a refund of contributions under section 19,

Employers must approve leaves of absence

(b) a leave of absence for any reason where the employer has authorized such leave and either before or after the commencement of such leave has agreed that it shall be deemed not to be a break in service,

Employer may deem a leave for disability (for elimination period)

(c) in any case where the member is not considered under section 14 to be totally disabled, an absence that the employer determines is caused by the member being wholly prevented by mental or physical incapacity from performing the regular duties of the occupation of the member,

Strike or lockout

(d) an absence due to a strike or lockout as defined in the *Labour Relations Act*,

Periods between council elections

(e) in the case of a member who is a councillor, a period between a term of council with one participating employer and a term of council with another or the same participating employer if the member has not received a refund of contributions under section 19,

Disability pension time

(f) a period, prior to the normal retirement date of a member, during which the member is in receipt of a pension under section 14, or

Layoff

(g) the period of a layoff for so long as recall rights exist or the employer reasonably expects to recall the member;

“contributory earnings” means,

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|--|--|
| Pre-1978 | (a) in the case of an employee who was a member before the 1st day of January, 1978, the earnings of the member, and |
| Redefined with Introduction of Final Average Earnings to forestall abuse | (b) in the case of an employee who was a member on and after the 1st day of January, 1978, the earnings of the member exclusive of salary or wages paid for overtime, payments made with respect to unused sick leave credit gratuities and payments made as retirement bonuses or otherwise as a result of retirement or other termination of employment whether in respect of long service or otherwise, and |
| Earnings but not expenses | (c) in the case of a councillor who is a member, means any money paid to the councillor for the councillor’s services as a councillor under the <i>Municipal Act</i> or under any Act establishing a metropolitan, regional or district municipality, |

If all else fails determine earnings using contributions actually remitted

provided that, unless the contrary is established to the satisfaction of the president, the contributory earnings of a member shall be deemed to be the contributory earnings that would be represented by the amount of contributions actually received by the Fund in respect of the member;

“credited service” means the years and part years of service of a member for which contributions under section 10 have been made and not refunded and includes any service established for a member under sections 14, 20, 25, 26 and 26.1;

ITA requirement

“dependent child” means the child of a deceased member who at the time of the member’s death was dependent on the member for support and,

- (a) is under nineteen years of age and will not attain that age in the calendar year of the member’s death, or
- (b) is under twenty-one years of age and in full-time attendance at an educational institution;

ITA requirement

“dependent child benefit period” means the period,

- (a) up to the end of the calendar year in which a dependent child reaches eighteen years of age, or
- (b) during which a dependent child is under twenty-one years of age and continues in full-time attendance at an educational institution;

“effective date” means the date upon which an employer commences to participate in the System in respect of both councillors and employees or in respect of either of them, as the case may be, according to the Act and this Regulation;

“pensionable earnings” means,

Consecutive
credited service

(a) where a member has sixty or more months of credited service the result obtained by taking the sum of the member’s contributory earnings for the sixty months of consecutive credited service during which such contributory earnings were the highest and dividing such sum by five, and

Less than 60
months

(b) where a member has less than sixty months of credited service, the result obtained by taking the sum of the member’s contributory earnings, dividing such sum by the number of months of such service and multiplying the figure so obtained by twelve,

Month

provided that, for the purposes of this definition, “month” means any calendar month in which a member is in the employ of a participating employer for fifteen days or more;

“present value” means an amount that is the actuarial equivalent to a payment or payments that become due in the future;

“president” means the president appointed by the Board;

An old provision
distinct from Type 1
supplementaries;
no longer available

“prior service agreement” means an agreement entered into under this Regulation for the provision of benefits in respect of prior service;

“retire” means retire from service and “retirement” has a corresponding meaning;

“supplementary agreement” means an agreement entered into under this Regulation for the provision of supplementary benefits.

COMMUTED VALUE

PBA calculation

(2) The commuted value of a pension is the value of that pension calculated in the manner prescribed under the *Pension Benefits Act*, except,

Pre-1987 - contribu-
tions plus interest

(a) the commuted value of a member’s pension in respect of the member’s credited service as of the 31st day of December, 1986 shall

not be less than the contributions made by the member under this Regulation on or before that date, plus interest, exclusive of contributions referred to in subsections 12(6), 26(14) and 26(16); and

Overall
contributions plus
interest guarantee

- (b) the commuted value of a member's total pension shall not be less than the contributions made by the member under this Regulation, plus interest, exclusive of contributions referred to in subsections 12(6), 26(14) and 26(16).

MANAGEMENT AND ADMINISTRATION

2. (1) The Board shall be composed of,

Board
membership

- (a) nine members who are employees of any employer who has elected to participate in the System, four of whom shall be officers of such an employer;
- (b) two persons who are members of the council of a participating municipality or of a participating local board of a municipality;
- (c) one official of the Province of Ontario, and
- (d) one other member who is in receipt of a pension under section 13 or 17 or is considered totally disabled under section 14 whether or not in receipt of a pension.

Term of
membership

- (2) The members of the Board shall be appointed by the Lieutenant Governor in Council and, subject to subsection (3), shall hold office for three years or such lesser period as the Lieutenant Governor in Council may determine and until their successors are appointed.

Cessation of
membership

- (3) If any member of the Board dies, becomes incapable of acting, resigns, is removed from office or ceases to hold the qualifications necessary for the member's appointment, he or she thereupon ceases to be a member of the Board.

Vacancies

- (4) The Lieutenant Governor in Council shall appoint another eligible person to fill any vacancy on the Board as soon thereafter as is practicable and the person so appointed shall hold office for the unexpired portion of the term of the member being replaced, or for such lesser period as the Lieutenant Governor in Council may determine.

Quorum	(5) A majority of the members of the Board holding office at the time any meeting is held constitutes a quorum for the purposes of such meeting.
Executive	(6) The Board shall elect from its members a chair and a vice-chair.
Fiscal year	(7) The fiscal year of the Board is the calendar year.
Information to clients	(8) The Board shall forward a copy of the annual report to every participating employer.
PBA disclosure	(9) The Board shall provide to members or other persons, as the case may be, such information, in the prescribed form and within the prescribed time, as is required under the <i>Pension Benefits Act</i> .

3. *Section 3 of the Regulation was revoked as part of the December 1992 amendments. Was used to commingle contributions from employers designated as eligible by Order-in-Council, with the basic Fund.*

DUTIES OF THE PRESIDENT

4. (1) The president,
- (a) shall maintain the books of account, records and documents of the Board and whatever information is necessary for the financial, administrative and actuarial requirements of the Board;
 - (b) shall receive, deposit and pay all money of the Fund in such manner as the Board directs;
 - (c) shall receive, keep safely and deliver all securities of the Fund in such manner as the Board directs;
 - (d) may borrow from time to time, as approved by the Board, such sums as are necessary to meet the needs of the Board;
 - (e) shall determine whether or not a benefit is payable, the amount of a benefit that is payable, and to whom this benefit is payable under this Regulation;
 - (f) shall determine, in the case of a disagreement, the date on which a benefit becomes or should have become payable under this Regulation;

Benefit
determination

Benefit date

- | | |
|---|---|
| | (g) shall prepare an annual report to the Board on the affairs of the System; |
| Spousal determination | (h) may, for the purposes of this Regulation, determine the individual who is the spouse of a member and, if the member and spouse were not married to each other, may deem the member and the spouse to have become married to each other on the date they began living in a conjugal relationship; and |
| PBA disclosure | (i) shall prepare and distribute the information necessary to meet the Board's obligations under subsection 2(9). |
| Appeals from president determination to the Board | (2) Any person aggrieved by a determination made by the president or by the failure of the president to make a determination under clause (1)(e) or (f) or under any other provision of this Regulation relating to an approval, consideration or direction to be given or other action to be taken by the president may appeal to the Board from such determination or failure to make a determination and the decision of the Board is final. |

DUTIES OF THE ACTUARY

5. The actuary shall, at the request of the president, prepare and advise on whatever actuarial calculations, schedules or tables are necessary for the proper administration of the System.

DUTIES OF THE EMPLOYER

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|-------------------------|---|
| Contribution remittance | 6. (1) All member and employer contributions in respect of the contributory earnings of a member shall be paid by the employer to the Board so that they shall be received by the Board at its office in Toronto on or before the last day of the month next following the month in respect of which the contributions were made. |
| Interest penalty | (2) When an employer fails to pay to the Board the contributions within the time set out in subsection (1), there shall be charged to the employer, in any month, interest at a rate equal to 1 1/2 per cent plus the prime rate on the first business day of that month of the bank that has the highest prime rate on that day on the amount of unpaid contributions from the end of the time period specified in subsection (1) until the date the total amount due has been received in the offices of the Board. |

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| Required information | (3) An employer shall provide the president with the name, sex, date of birth, marital status, earnings and service of each member and such other information as may be necessary for the administration of the System, within such time limit as the Board may establish. |
| PBA - information to members | (4) An employer shall provide each member with an explanation in writing of the contributions required and the pension benefits provided under the Act and this Regulation and such other information as the Board shall determine in the form and within the time established by the Board. |

PARTICIPATION BY EMPLOYERS

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| Right to participate | 7. (1) An employer may participate in the System by submitting an election in writing to the president. |
| Effective date | (2) The effective date with respect to employees or councillors may be the first day of any month within the year in which the president receives the employer's election to participate in the System in respect of such employees or councillors. |
| | (3) <i>Revoked. Referred to contributions made under an approved pension plan (formerly 6(3)).</i> |

MEMBERSHIP

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|---------------------------------------|---|
| Continuous full-time | 8. (1) Subject to subsections (2) and (3), every employee who is employed on a continuous full-time basis by an employer who has elected to participate in the System, |
| Already employed - optional enrolment | (a) if the employment on such basis commenced before the effective date, is entitled to become a member; |
| Pre-1978 - waiting period allowed | (b) if the employment on such basis commenced on or after the effective date, but before the 1st day of January, 1978, shall become a member on a day fixed by the employer that is within twelve months after the day on which the employee became employed on a continuous full-time basis but not later than the 1st day of January, 1978; and |

Post-1977 - enrolment on hire date	(c) if the employment on such basis commenced on or after the 1st day of January, 1978, shall become a member on the date he or she was so employed.
If approved plan	(2) If on the effective date the employer is required to make contributions to an approved pension plan under the terms of a bargaining agreement an employee to whom the agreement applies,
Employed before July 1, 1968 - merger conditions if collective agreement	<p>(a) if the employee's employment on a continuous full-time basis commenced before the date on which the agreement is terminated or before the 1st day of July, 1968, whichever is earlier, shall become a member on or after a day fixed by the employer after the 31st day of December, 1980, if,</p> <p>(i) 75 per cent of such employees who are under normal retirement age at any time apply or have applied to become members, or</p> <p>(ii) membership in the System is a condition of or required by the bargaining agreement;</p>
After July 1, 1968 all new employees must join OMERS - but waiting period allowed	(b) if the employee's employment on a continuous full-time basis commenced after the date the agreement is terminated or after the 1st day of July, 1968, whichever is earlier, shall become a member on a day fixed by the employer that is within twelve months after the day on which the employee became employed on a continuous full-time basis but not later than the 1st day of January, 1978; and
After January 1, 1978 all new employees must join OMERS immediately	(c) if the employee's employment on a continuous full-time basis commenced on or after the 1st day of January, 1978, shall become a member on the date the employee was so employed.
Merger conditions - if no collective agreement governing the approved plan	(3) If the employer makes contributions to an approved pension plan, an employee, other than an employee referred to in subsection (2), whose employment on a continuous full-time basis commenced before the effective date, shall become a member on or after a day fixed by the employer after the 31st day of December, 1980, if 75 per cent of such employees who are under normal retirement age at any time apply or have applied to become members.

Other-than-continuous full-time

- | | |
|---|--|
| Protection for pre-1978 OTCFT members | (4) Where an employer so approves, subsection (1) applies with necessary modifications to employees or any class thereof who are employed on other than a continuous full-time basis, except that “effective date” in that case means the date of such approval, but all such employees who are members on the 31st day of December, 1977 shall have continued membership in the System. |
| PBA requirements for OTCFT membership election | <p>(4.1) Despite subsection (4), an employee who is employed on other than a continuous full-time basis by an employer who has elected to participate in the System is entitled to become a member if, in each of the two consecutive calendar years immediately before the calendar year in which the employee elects to become a member, the employee,</p> <p style="margin-left: 40px;">(a) has earnings of not less than 35 per cent of the Year’s Maximum Pensionable Earnings, as defined in the <i>Canada Pension Plan</i>, with one or more employers who have elected to participate in the System; or</p> <p style="margin-left: 40px;">(b) has at least 700 hours of employment with one or more employers who have elected to participate in the System.</p> |
| Determination of OTCFT | (5) In this section, an employee employed on a continuous full-time basis means an employee who is employed in a continuing position of the employer and who regularly works the normal full-time work week of the employer for similar work, but the president may, in any case of disagreement, determine if an employee is employed on a continuous full-time basis. |
| President can back date certain memberships as far as January 1 of year of receipt of application | <p>(6) Where an employee is entitled to become a member under clause (1)(a), clause (2)(a) or subsection (4.1), such employee becomes a member on the first day of the month following the month in which the employee’s application is received by the president provided that the president may at the request of the employer fix an earlier day on which the employee becomes a member but not before the day on which the employee became entitled to be a member or the 1st day of January in the year in which the application is received by the president.</p> <p>(7) <i>This subsection was revoked as part of the 1992 changes. Used to emphasize the fact that member who left a participating employer to work for a non-participating employer could not force the latter to join OMERS.</i></p> |

Amalgamation -
no loss of
membership

- (8) Where two or more employers are amalgamated, the new employer shall be deemed to have elected to participate in the System on the date of the amalgamation in respect of the employees and councillors, if any, of the former employers who were members of the System on the day immediately preceding such date and who are employed by the new employer on such date or are members of the council of the new employer on such date.

Councillor
membership - all
or nothing

- (9) Every councillor of a municipality that has elected to participate in the System in respect of councillors,
- (a) if the councillor became a councillor of the municipality before the effective date with respect to councillors, shall become a member on the effective date; and
 - (b) if the councillor became a councillor of the municipality after the effective date with respect to councillors, shall become a member on the date on which the councillor becomes a councillor of the municipality.

Further other-
than-continuous
full-time

9. Despite the definitions of “continuous service”, “contributory earnings”, “credited service” and “pensionable earnings” in section 1, a member who is employed on other than a continuous full-time basis,
- (a) shall be deemed to have continuous service while so employed;
 - (b) shall accrue credited service each year on a proportional basis to a member employed on a continuous full-time basis in a similar occupation with the employer; and
 - (c) shall have the member’s pensionable earnings calculated using annualized contributory earnings and continuous service in lieu of credited service.

CONTRIBUTIONS BY MEMBERS

Payroll deduction
- Age 71 limitation

10. (1) Every member shall contribute to the Fund by payroll deduction in each pay period a percentage of the member’s contributory earnings while he or she is an employee or councillor of an employer who participates in the System but no contribution shall be payable by a member from the first day of the month following the month in which the member attains seventy-one years of age.

(2) *This subsection was revoked as part of the December 1992 amendments. Referred to the old contribution rate.*

Contribution rate	(2.1) Effective the 1st day of January, 1992, the contributions payable by a member under subsection (1) in respect of his or her contributory earnings in any pay period are,
NRA 65	(a) for a member whose normal retirement age is 65 years, 6 per cent of the contributory earnings which are equal to or less than the result obtained by dividing the Year's Maximum Pensionable Earnings as defined in the <i>Canada Pension Plan</i> by the number of pay periods in the year, plus 7.5 per cent of the balance of the contributory earnings; and
NRA 60	(b) for a member whose normal retirement age is 60 years, 7 per cent of the contributory earnings which are equal to or less than the result obtained by dividing the Year's Maximum Pensionable Earnings as defined in the <i>Canada Pension Plan</i> by the number of pay periods in the year, plus 8.5 per cent of the balance of the contributory earnings.
ITA limit for contributory earnings	(2.2) In any pay period, the contributory earnings in respect of which contributions are payable by a member shall not exceed the rate of contributory earnings which, when substituted for pensionable earnings in subsection 13(5), results in a pension amount equal to the limit established in subsection 13(8).
35 year maximum	(2.3) Despite subsection (1), no contribution shall be payable by a member after the member has accrued thirty-five years of credited service.
No contributory earnings cap for pensionable earnings purposes - the ITA pension maximum does not apply for pre-1992 service	(2.4) Despite subsections (2.2) and (2.3), for the purposes of calculating pensionable earnings, the contributory earnings of a member shall be calculated as if subsections (2.2) and (2.3) had no effect and the member contributed to the Fund under subsection (1).
Administrative convenience for employer deductions	(3) At the option of the employer, the amount of contributions payable by a member under subsection (1) shall, instead of being computed in accordance with subsection (2.1), for ranges in contributory earnings not exceeding \$10 monthly, be computed on the average of the highest and lowest amounts in the range.

No withdrawal of contributions while a member	(4) Contributions made by members shall not be withdrawn from the Fund in whole or in part while the member remains an employee or councillor.
Elimination period	(5) A member who does not make a contribution to the Fund under subsection (1) during an absence that is an absence described in clause (c) of the definition of “continuous service” in section 1 may establish the period of the absence as credited service by paying to the member’s employer for payment into the Fund on a date specified by the Board an amount equal to the amount of contribution calculated in accordance with subsection (2.1) as if the annual rate of contributory earnings of the member on the day immediately preceding the absence had been received by the member during the absence.
Single contributions	(6) <i>This subsection was revoked. Referred to special contributions.</i>
Waiting period - pre-1978	(7) A member who became a member in accordance with clause 8(1)(b) or clause 8(2)(b) and did not become a member on the day the member commenced employment on a continuous full-time basis may establish as credited service such period of employment before the member became a member if, on or before a date designated by the Board, the member elects to pay in a manner prescribed by the Board,
Designated date June 30, 1987	
Single contributions by member	(a) the amount of the contribution that the member would have paid to the Fund under this section if such period of employment was with the member’s current employer; or
Double contributions by member	(b) twice the amount of the contribution that the member would have paid to the Fund under this section if such period of employment was with a participating employer other than the member’s current employer.
Broken service (Leave of absence, etc)	(8) A member who did not make a contribution to the Fund under subsection (1) during an absence that was an absence described in clause (b) or (d) of the definition of “continuous service” in section 1, may establish all or a part of the period of the absence as credited service by paying into the Fund an amount equal to twice the amount of contribution calculated in accordance with subsection (2.1) as if the annual rate of contributory earnings of the member on the day immediately preceding the absence had been received by the member during the absence and,

- | | |
|--|--|
| Pre-1978 | (a) if the absence terminates on or before the 31st day of December, 1977, the amount to be paid by the member shall be paid to the Fund on or before a date designated by the Board; and |
| Post-1977 | (b) if the absence terminates after the 31st day of December, 1977, the amount to be paid by the member shall be paid to the Fund on or before the end of the year next following the year in which the absence terminates. |
| ITA Limits for broken service purchases | (9) For the purposes of subsection (8), if a member wishes to establish as credited service a period of absence which occurred after 1990 and has already established as credited service other such periods of absence totalling 5 years, plus, in respect of pregnancy or parental leave, up to one year of absence applied to any child up to a maximum of three years, no benefit shall be payable or funded in respect of any additional such periods of absence which the member wishes to establish as credited service until certification of the member's past service pension adjustment under the <i>Income Tax Act</i> , (Canada). |
| Limits do not apply to disabilities | (10) Subsection (9) does not apply with respect to periods of absence of a member resulting from a disability of the member. |
| Periods of reduced pay - 36 month service criterion | (11) For the purposes of subsection (8), in order to establish as credited service a period of absence in respect of a "period of reduced pay" as defined in the <i>Income Tax Act</i> , (Canada), the member must have been employed by the member's employer at least 36 months before the commencement of the "period of reduced pay". |
| No service accrual if a member of another pension plan | (12) Despite subsection (8), no member may establish as credited service a period of absence which occurred after 1990 if the member has accrued pension benefits in respect of that period under another pension plan registered under the <i>Income Tax Act</i> , (Canada). |

SOCIAL CONTRACT

10.1 (1) In this section,

"social contract leave day" means a working day for which the member is not paid due to a leave of absence required by the *Social Contract Act, 1993* or an agreement or plan under it;

"social contract period" means the period beginning June 14, 1993 and ending March 31, 1996;

“social contract year” means any of the following periods,

- (a) June 14, 1993 to March 31, 1994;
- (b) April 1, 1994 to March 31, 1995; or
- (c) April 1, 1995 to March 31, 1996.

Social contract
leave days

- (2) Despite subsection 10(8), a member’s social contract leave days are established as credited service.

Reduced pay
equivalent

- (3) If a member’s pay is reduced by or under the *Social Contract Act, 1993* but the member is not entitled to or does not take an actual leave of absence, the number of working days that the reduction represents is established as credited service.
- (4) The maximum number of days that may be established under subsections (2) and (3) as credited service in a social contract year is twelve or an equivalent number as determined under the *Social Contract Act, 1993*.

No contributions
required

- (5) Despite subsection 10(8), no contributions shall be required by a member in respect of days established as credited service under subsections (2) or (3) and the member shall be credited with an unreduced rate of contributory earnings in respect of those days.

Full pay credited

- (6) During the social contract period, the unreduced rate of contributory earnings of a member required under subsection (5) shall be deemed to be the rate for which contributions would have been made by the member under subsection 10(2.1) if the member were not on a leave of absence required by or under the *Social Contract Act, 1993*.

Phased in
retirement

- (7) Despite section 10, during a period of reduced pay as defined in the *Income Tax Act, (Canada)* a member may accrue credited service and be credited with an unreduced rate of contributory earnings if,
 - (a) the member is within five years of retirement age;
 - (b) the employer authorizes the period of reduced pay for the member;
 - (c) the period of reduced pay begins during the social contract period; and

- (d) the employer and the member continue to contribute to the Fund in the same proportions as they did before the period of reduced pay based on the unreduced rate of contributory earnings.
- (8) The unreduced rate of contributory earnings of a member under subsection (7) shall be deemed to be the rate for which contributions would have been made by the member under subsection 10(2.1) if the period of reduced pay did not apply to that member.
- Layoff as broken service - 6 months
 - (9) An employer who has approved a downsizing program under section 26.2 may establish as part of that program a period of six months or less in which an employee is laid off as credited service under subsection 10(8).
 - (10) An employee is only eligible for credited service under subsection (9) if,
 - (a) the employee is laid off by the employer or absent with the authorization of the employer for a period of any length beginning during the social contract period; and
 - (b) the employee subsequently becomes a member.
- Shared broken service cost
 - (11) Despite subsection 10(8), an employer may pay all or part of the contributions in respect of credited service earned by a member under subsection (9).
 - (12) The period referred to in subsection (9) may be a continuous period or made up of a number of shorter periods.

CONTRIBUTIONS BY EMPLOYERS

- 11.** (1) Every employer shall contribute to the Fund an amount equal to contributions made under subsection 10(1) by employees or councillors of the employer.

Subsections (2), (3), (4), (5), (6) and (7) were revoked. Referred to special contributions.

- (8) Where a member elects to make a contribution,

Elimination period	(a) under subsection 10(5), the employer shall make an equal contribution and shall pay such member contributions and employer contributions to the Fund forthwith;
Pre-1978 waiting period	(b) under clause 10(7)(a), the employer shall make an equal contribution and shall pay to the Fund on or before a date designated by the Board such member contributions and employer contributions; or
Remitting member broken service contributions	(c) under clause 10(7)(b) or subsection 10(8), the employer shall pay such contributions to the Fund forthwith.

DEFICIENCIES AND LARGE SURPLUSES

Deficiencies are shared	11.1 (1) Despite subsection 10(2.1), if an actuarial valuation made under subsection 7(1) of the Act reveals an unfunded liability or solvency deficiency as defined in the <i>Pension Benefits Act</i> , and periodic amounts are to be paid to the Fund under that Act to liquidate the unfunded liability or solvency deficiency, the Board on the advice of the actuary, shall increase the rate of contributions under subsection 10(2.1) to a level sufficient to ensure payment of one-half of such periodic amounts for the period required under the <i>Pension Benefits Act</i> .
Sharing excess surplus withdrawal	(2) Despite subsection 10(1), if an actuarial valuation made under subsection 7(1) of the Act reveals a surplus and under the <i>Income Tax Act</i> , (Canada), contributions to the Fund must be suspended until the surplus is reduced to prescribed levels, the Board shall suspend contributions under subsections 10(1) and 11(1) until the surplus is so reduced.

NORMAL RETIREMENT AGE

12. (1) The normal retirement age of a member is,

	(a) sixty-five years; or
NRA 60 - all or a class	(b) sixty years, if a member is a police officer or firefighter and the employer has changed the normal retirement age of the class of employees to whom the member belongs to sixty years.

- (2) The normal retirement date of a member is the last day of the month in which the member attains the member's normal retirement age.
- NRA conversion from 65 to 60 - all or any class
- (3) An employer may change the normal retirement age of all members or any class of members who are police officers or firefighters from sixty-five years to sixty years by submitting an election in writing to the president.
- Police cadet
- (4) In subsection (3), "police officer" includes a police cadet.
- Rules for NRA conversion - NRA 65 to NRA 60. All credited service must be the same.
- (5) The normal retirement age of a member who,
- (a) is contributing to the Fund on the basis of a normal retirement age of sixty years;
 - (b) previously contributed to the Fund on the basis of a normal retirement age of sixty-five years; and
 - (c) has not withdrawn from the Fund any of the contributions referred to in clause (b),
- shall be deemed to be sixty years for his or her entire period of credited service, and the period of his or her credited service while his or her normal retirement age was sixty-five years shall be reduced by one-third, unless credit is established in the Fund by or in respect of the member of an amount, determined by the Board on the advice of the actuary, equal to the difference between the present value of the pension earned based on credited service while the member's normal retirement age was sixty-five years and the same pension calculated as if the member's normal retirement age had been sixty years.
- NRA conversion from NRA 60 to NRA 65 - refund of excess contributions
- (6) Despite subsection 10(4), a member who is contributing to the Fund on the basis of a normal retirement age of sixty-five years and previously contributed to the Fund on the basis of a normal retirement age of sixty years shall have refunded to him or her,
- (a) the contributions made by the member under section 10 on the basis of a normal retirement age of sixty years minus the contributions that would have been made by the member under section 10 on the basis of a normal retirement age of sixty-five years; or
 - (b) any excess contributions made under subsection (5) or section 20, 24, 26 or 26.1 with interest calculated in the manner provided under subsection 19(3).

NRA conversion
from NRA 60 to
NRA 65 - deferred
members excess
refund

- (7) Despite subsection 19(1) and in lieu of the benefit referred to in subsection (6), a member who ceases to be an employee or councillor of an employer may, by written request to the president, request that the contributions referred to in subsection (6) be paid to him or her, together with interest thereon at the rate set forth in subsection 19(3) less the amount of benefits that have been paid.

NRA conversion
rules - NRA 65 to
NRA 60. All
credited service
must be the same.
Costs can be
shared or paid by
either party

- (8) The normal retirement age of a member who,
- (a) is contributing to the Fund on the basis of a normal retirement age of sixty years;
 - (b) previously contributed to the Fund on the basis of a normal retirement age of sixty-five years and before that contributed to the Fund on the basis of a normal retirement age of sixty years; and
 - (c) has not withdrawn from the Fund any of the contributions referred to in clause (b),

shall be deemed to be sixty years for his or her entire period of credited service, and the period of credited service to the credit of the member based on a normal retirement age of sixty-five years shall be reduced by one-third unless,

- (d) in respect of a prior period during which the member contributed to the Fund on the basis of a normal retirement age of sixty-five years, credit is established in the Fund by or in respect of the member to the Fund of an amount calculated in accordance with subsection (5); and
- (e) in respect of a prior period during which the member previously contributed to the Fund on the basis of a normal retirement age of sixty years, credit is established in the Fund by or in respect of the member of an amount equal to the excess of contributions made by the member referred to in subsection (6), together with interest thereon calculated in the manner provided in subsection 19(3).

NRA conversion -
age 65 to 60 -
pro-rated penalty
if age is greater
than 60 years

- (9) If a member's age is sixty years or more, the one-third reduction referred to in subsection (5) and (8) shall equal one-fifteenth times the number of complete years and months that the member's age is less than sixty-five years, and the calculation of the amount referred to in subsections (5) and (8) shall be modified accordingly.

NORMAL RETIREMENT PENSIONS

Entitlement	13. (1) Every member who retires on or after the member's normal retirement date is entitled to receive a normal retirement pension.
Payment date	(2) A pension under this section is payable to a member beginning on the first day of the month following the month of the member's retirement.
Must pay at age 71	(3) Despite subsections (1) and (2), a member who attains seventy-one years of age is entitled to receive a pension commencing on the first day of the month next following the month in which the member attains seventy-one years of age.
How to calculate	(4) A member's normal retirement pension equals the sum of the member's lifetime normal retirement pension and bridge pension.
Lifetime pension	<p>(5) The lifetime normal retirement pension payable to a member for life equals,</p> <p>(a) 2 per cent of the member's pensionable earnings multiplied by the member's credited service in respect of years before 1966; and</p> <p>(b) in respect of years after 1965, the sum of,</p> <p>(i) 1.3 per cent of the lesser of the member's pensionable earnings or the average of the Year's Maximum Pensionable Earnings as defined in the <i>Canada Pension Plan</i> for the year in which the member ceased to be employed by the employer and for each of the two preceding years, and</p> <p>(ii) 2 per cent of the balance of the member's pensionable earnings, multiplied by the member's credited service.</p>
35 years credited service maximum	(6) For the purposes of subsection (5), the total number of years of credited service of a member may not exceed thirty-five.
Pre-age 65 bridge pension	<p>(7) The bridge pension payable to a member until he or she becomes or would have become entitled to a pension under the <i>Canada Pension Plan</i> that is unreduced for early retirement equals 0.7 per cent multiplied by the lesser of,</p> <p>(a) the member's pensionable earnings; and</p>

- (b) the average of the Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan* for the year in which the member ceased to be employed by the employer and for each of the two preceding years,
- Only post-1965 credited service multiplied by the member's credited service in respect of years after 1965, to a maximum of thirty-five years of credited service.
- Revenue Canada - registered pension plan post-1991 pension maximum (see RCA) (8) Despite subsection (5), the lifetime normal retirement pension of a member for each year of credited service in respect of years after 1991 shall not exceed \$1,722.22 or such other limit prescribed under the *Income Tax Act*, (Canada).
- Pre-1990 service - if not pensionable under any pension plan - maximum pension is \$1,150 per year of credited service (no RCA avoidance) (9) Despite subsection (5), for credited service in respect of years before 1990 accrued under section 26.1 or an agreement under section 26 entered into on or after the 8th day of June, 1990, if the member for whom such service accrues was not a member of any pension plan registered under the *Income Tax Act*, (Canada) during any year in respect of that credited service, the lifetime normal retirement pension of a member, for each year of the credited service, shall not exceed \$1,150 or such other limit prescribed under the *Income Tax Act*, (Canada).

DISABILITY BENEFITS

- Disability definition - waiver **14. (1)** Upon application and with the approval of the president, a member shall be considered to be totally disabled on the date that a legally qualified medical practitioner appointed by the Board certifies is the date that the member is wholly prevented due to mental or physical incapacity from performing the regular duties of the occupation in which he or she was engaged immediately before that date, and the disability shall be considered to continue if the member is so prevented during the first twenty-four month period immediately after that date, and, thereafter, the disability shall be considered to continue if the member is prevented from engaging in any occupation or performing any work for compensation or profit for which the president, on the advice of a legally qualified medical practitioner appointed by the Board, considers the member is or may become reasonably qualified by education, training or experience.

Disability definition - pension	(1.1) Upon application and with the approval of the president, a member shall be considered to be totally disabled on the date that a legally qualified medical practitioner appointed by the Board certifies is the date that the member began suffering from a physical or mental impairment which prevents the member from engaging in any occupation or performing any work for compensation or profit for which the president, on the advice of a legally qualified medical practitioner appointed by the Board, considers the member is or may become reasonably qualified by education, training or experience and which can reasonably be expected to last for the remainder of the member's lifetime.
Disability definition - conditions	(2) Despite subsections (1) and (1.1), total disability shall be considered not to exist,
No working - but rehabilitation is O.K.	<p>(a) during any period in which the member engages in any occupation for compensation or profit other than an occupation associated with a rehabilitation program approved by the president.</p> <p>(b) <i>This subsection was revoked. Referred to specialist to certify mental disability.</i></p>
Self-inflicted or criminal	(c) where such total disability in respect of a member results from wilfully self-inflicted injury or the commission or attempted commission by the member of an indictable offense under the <i>Criminal Code</i> , (Canada) or the engagement by the member in an unlawful occupation; and
Pre-existing condition (one year)	(d) where such total disability in respect of a member occurs within one year of becoming a member of the System and results from a condition of the member that existed prior to becoming a member of the System.
Disability waiver - service accrual	(3) A member who is considered under subsection (1) to be totally disabled and who has not taken a refund under section 19 accrues credited service from the latest of,
FAE introduction	(a) the 1st day of January, 1978;
Elimination period	<p>(b) the first day of the fifth calendar month following the month in which the member is considered totally disabled; or</p> <p>(c) the day the member ceases to make contributions under section 10,</p>

until the earlier of the member's normal retirement date or the day the member ceases to be considered totally disabled.

Contributory earnings during the waiver period

(4) During the period of the accrual of a member's credited service referred to in subsection (3),

(a) the contributory earnings of the member shall be deemed to be the annual rate of contributory earnings for which contributions were last made by the member under section 10; and

YMPE

(b) for the purposes of any pension calculated in the manner prescribed in section 13, for any year of credited service accrual under subsection (3), the Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan* shall be deemed to be equal to that of the year in which the member's credited service accrual under subsection (3) began.

No contributions in a waiver period

(5) Despite section 10, no member shall make contributions to the Fund in respect of contributory earnings under subsection (4) during the period of accrual of credited service under subsection (3).

A waiver member is deemed to be an employee

(6) Whether or not a member who is accruing credited service under subsection (3) continues to have the status of an employee with respect to the employer, the member shall be deemed to be an employee of the employer for the purposes of this Regulation.

Increase to deemed earnings by inflation adjustment

(7) Every member whose credited service accrual under subsection (3) began on or before the 1st day of October, of the year prior to an adjustment year and continues to the 1st day of January of that adjustment year shall have,

(a) his or her deemed annual rate of contributory earnings referred to in clause (4)(a) increased by the inflation adjustment in the manner prescribed in subsection 21(5) from the 1st day of January of the adjustment year; and

(b) his or her deemed Year's Maximum Pensionable Earnings referred to in clause (4)(b), from the 1st day of January of the adjustment year, increased to the lesser of,

(i) the member's deemed Year's Maximum Pensionable Earnings increased by the inflation adjustment in the manner prescribed in subsection 21(5), or

(ii) the Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan*, for the adjustment year.

Increase to
pensions

(8) Despite subsections (4) and (7), if on the 1st day of October of the year prior to an adjustment year a member is entitled to a disability benefit under subsection (3) and on the 1st day of January of that adjustment year,

(a) the member is entitled to a pension;

(b) the member is entitled to a deferred pension; or

(c) the member's spouse or children are entitled to a pension in respect of the deceased member,

the pension referred to in clause (a), (b), or (c) shall be increased on the 1st day of January of the adjustment year by the inflation adjustment in the manner prescribed in subsection 21(5) using the date the member became entitled to a disability benefit as the commencement date of the pension or deferred pension to be increased by the inflation adjustment.

One time increase
- Jan 1/91

(9) Despite subsections (4) and (7), if on the 1st day of October 1989 a member was entitled to a disability benefit under subsection (3) and on the 1st day of January, 1991 continues to be so entitled, the member's deemed annual rate of contributory earnings referred to in clause (4)(a) and deemed Year's Maximum Pensionable Earnings referred to in clause (4)(b) shall be increased on the 1st day of January, 1991 by the inflation adjustment as defined in subsection 22(2).

(10) Despite subsections (9) and (12), a member's deemed Year's Maximum Pensionable Earnings shall not exceed, for any year, the actual Year's Maximum Pensionable Earnings as defined in the *Canada Pension Plan* for that year.

(11) Despite subsections (4) and (7), if on the first day of October, 1989 a member was entitled to a disability benefit under subsection (3) and on the 1st day of January, 1991,

(a) the member is entitled to a pension;

(b) the member is entitled to a deferred pension; or

(c) the member's spouse or children are entitled to a pension in respect of the deceased member,

the pension referred to in clause (a), (b) or (c) shall be increased on the 1st day of January, 1991 by the inflation adjustment, as defined in subsection 22(2), using the date the member became entitled to a disability benefit as the commencement date of the pension or deferred pension to be increased by the inflation adjustment.

- (12) Despite subsections (3) to (11), for the purposes of calculating a pension in the manner prescribed in section 13, for each year prior to 1988 a member's deemed contributory earnings as described in clause (4)(a) and deemed Year's Maximum Pensionable Earnings as described in clause (4)(b) shall be increased by the inflation adjustment defined in subsection 22(2) with necessary modifications.

A member on waiver may elect a pension

- (13) A member who is considered under subsection (1.1) to be totally disabled and who is entitled to accrue credited service under subsection (3) may, instead of accruing credited service under subsection (3), elect to receive a pension as follows:

1. The pension is calculated in the manner prescribed in section 13.
2. The pension begins on the later of the first day of the fifth calendar month following the month in which the member is considered totally disabled and the first day of the month following the month the member ceases to make contributions under section 10.
3. The pension continues to be payable until the member ceases to be considered totally disabled, unless it occurs after his or her normal retirement date, in which case the pension is payable for his or her life.

Pension commencement

- (14) Where a member has accrued a period of credited service under subsection (3) and subsequently elects to receive a pension under subsection (13), the pension shall commence on the first day of the month next following receipt of the member's pension election in the Board's offices.

Accrual of service stops

- (15) The accrual of credited service under subsection (3) ceases on the last day of the month preceding the month in which a pension commences under subsection (13).
- (16) On the date a member ceases to be considered to be totally disabled the member shall be deemed to cease to be an employee of the member's most recent employer.

Disabled members must submit to a medical review - no more than once per year - at OMERS expense

(17) Every member who under this section is considered to be totally disabled shall, at the request of the president and at the expense of the Fund, submit from time to time to a medical examination by a legally qualified medical practitioner appointed by the Board, but such an examination shall not be required more frequently than once a year and not after the normal retirement date of the member.

(18) If a member fails within sixty days after a request therefor to submit to a medical examination in accordance with subsection (17) the member shall be deemed not to be totally disabled.

OMERS disability pension plus WCB - 85% maximum

(19) Despite subsection (13), the amount of pension payable to a member in any month before his or her normal retirement date under this section, together with any amount of compensation payable to the member with respect to that amount under the *Workers' Compensation Act*, shall not exceed 85 per cent of the monthly rate of contributory earnings of the member on the last day the member received the normal rate of contributory earnings from his or her employer.

(20) For purposes of subsection (19), the amount of pension payable to a member shall exclude any adjustments made thereto under section 21 or any similar adjustments made to compensation payable to the member under the *Workers' Compensation Act*.

Back to work - if disability recurs within 6 months

(21) Despite subsections (3) and (13), if a member who was accruing credited service under subsection (3) or was receiving a pension under subsection (13) returns to work and ceases to accrue credited service under subsection (3) or ceases to receive a pension under subsection (13) and within 6 months of returning to work again becomes disabled under subsection (1) or (1.1) as a result of the same mental or physical incapacity, as certified by a legally qualified medical practitioner appointed by the Board, the member may immediately resume accruing credited service under subsection (3) or receiving a pension under subsection (13).

DEATH OF A MEMBER BEFORE RETIREMENT

15. (1) A pension is payable under this section on the death of a member before the commencement of his or her pension,

Pensions to widows, widowers or children

(a) to the widow or widower of the member if the member and the member's widow or widower were not living separate and apart on the date of the member's death; or

Order of
entitlement

- (b) to each dependent child of the deceased member if,
 - (i) at the death of the member there is no widow or widower entitled to receive a pension under this section,
 - (ii) the widow or widower is not entitled to receive or to continue to receive a pension under this section by virtue of subsection 15.2(9), or
 - (iii) the widow or widower of the member who is entitled to a pension under this section has died.

(2) The annual amount of pension payable under this section,

Pension amount -
widow or widower

- (a) to a widow or widower, is 60 per cent of the annual amount of pension calculated under section 13 plus, in respect of each dependent child of the member during his or her dependent child benefit period, an increase of one-sixth of the pension payable up to a maximum of 75 per cent of the annual amount of pension calculated in the manner prescribed in section 13; or

Pension amount -
child

- (b) to a dependent child is,
 - (i) 60 per cent of the annual amount of pension calculated under section 13, or
 - (ii) if the widow or widower was receiving a pension immediately before her or his death, the amount of that pension excluding any adjustment in respect of a dependent child of the member,

divided by the number of dependent children of the member who remain in their dependent child benefit periods.

Integrated with
CPP

- (3) Every calculation of a member's pension under this section shall be on the basis that the member was entitled to a pension under the *Canada Pension Plan* at the time of the member's death.

Minimum pension
value - PBA
requirement

- (4) For the purposes of this section the minimum value of a member's pension earned to the date of the member's death, is the sum of,
 - (a) the contributions made by the member before the 1st day of January, 1987 under this Regulation exclusive of contributions referred to in subsections 12(6), 26(14) and 26(16), plus interest; and

- (b) the commuted value of the member's pension in respect of credited service of the member earned on or after the 1st day of January, 1987,

less the sum of any benefits paid to or in respect of a member under this Regulation, exclusive of benefits under subsections 12(6), 19(2), 26(14) and 26(16).

- (5) If the commuted value of the pension payable on the death of a member under this section is less than the minimum value of the member's pension as determined in subsection (4), the pension payable shall be increased accordingly.

Widow or widower
refund option

- (6) A widow or widower eligible for a pension under subsection (1) may elect to receive, instead of that pension, a refund of an amount equal to the minimum value of the member's pension.

Widow or widower
deferred pension
option

- (7) A widow or widower may elect to receive, instead of a refund under subsection (6), a deferred pension, the commuted value of which shall equal the amount of the refund, payable for life commencing the first day of the month following the month she or he attains the age of,
 - (a) sixty-five if the normal retirement age of the member was sixty-five years; or
 - (b) sixty if the normal retirement age of the member was sixty years.

Beneficiary/estate
entitlement

- (8) If, at the date of death of a member, there is no widow or widower or child of the member eligible for a pension under this section, the member's designated beneficiary, or estate if there is no designated beneficiary, is entitled to a refund of an amount equal to the minimum value of the member's pension.
- (9) If at the date of death of a member, there is no widow or widower eligible for a pension under this section but there is a child or children of the member so eligible, the member's designated beneficiary, or estate if there is no designated beneficiary, is entitled to a refund of an amount equal to the commuted value of the member's pension in respect of credited service the member earned on or after the 1st day January, 1987 less the commuted value of the pension payable to the member's child or children under this section.

Benefits must at least equal member contributions plus interest

- (10) If no pension is payable to a widow, widower or children of a deceased member under this section, the member's designated beneficiary, or estate if there is no designated beneficiary, is entitled to a refund of the contributions to the credit of the member, plus interest to the date of the member's death, less the amount of any benefits that have been paid to or in respect of the member.

DEATH OF A MEMBER AFTER RETIREMENT

- 15.1** (1) A pension is payable under this section on the death of a member after the commencement of his or her pension,

Order of entitlement (also marriage may take place after retirement)

- (a) to the widow or widower of the member; or
- (b) to each dependent child of the deceased member if,
 - (i) at the death of the member there is no widow or widower of the member entitled to receive a pension under this section,
 - (ii) the widow or widower of the member is not entitled to receive or continue to receive a pension under this section by virtue of subsection 15.2(9), or
 - (iii) the widow or widower of the member who was entitled to a pension under this section has died.

- (2) The annual amount of pension payable to a widow or widower is,

Pension amount - widow or widower

- (a) 60 per cent of the annual amount of the pension the member was receiving immediately before death occurred, but in the case of a member who retired before the 1st day of January, 1978 on an early retirement pension and who died on or after that day, increased to the amount it would have been if it had not been reduced for early retirement and,
- (b) in respect of each dependent child of the member during his or her dependent child benefit period, one-sixth of the pension payable,

up to a maximum of 75 per cent of the pension the member was receiving immediately before death occurred, with appropriate modifications for a member who retired before the 1st day of January, 1978 on an early retirement pension.

- (3) The annual amount of pension payable to a dependent child is,

Pension amount -
child

- (a) 60 per cent of the annual amount of the pension the member was receiving immediately before death occurred, but in the case of a member who retired before the 1st day of January, 1978 on an early retirement pension and who died on or after that day, increased to the amount it would have been if it had not been reduced for early retirement; or
- (b) if the widow or widower was receiving a pension immediately before her or his death, the pension the widow or widower was receiving excluding any adjustment in respect of a dependent child of the member,

divided by the number of dependent children of the member who continue in their dependent child benefit periods.

Integrated with
CPP

- (4) Every calculation of a member's pension under this section shall be on the basis that the member was entitled to a pension under the *Canada Pension Plan* at the time of the member's death.

Beneficiary/estate
entitlement -
minimum of member
contributions plus
interest

- (5) If, under this section, no pension is payable to a widow, widower or child of a deceased member, the member's designated beneficiary, or estate if there is no designated beneficiary, is entitled to a refund of the contributions to the credit of the member, plus interest to the date of the member's retirement, less the amount of any benefits that have been paid to or in respect of the member.

Retroactive
application of
"marriage after
retirement"

- (6) Subsection (1) applies in respect of member marriages which occurred before the date this section came into force, upon application to the Board by any eligible widow or widower.
- (7) The pension payable to an eligible widow or widower shall be calculated as if subsection (1) had been in effect on the date of death of the former member to whom the eligible widow or widower was married.
- (8) Despite subsection (6) or (7), the pension payable to an eligible widow or widower shall be reduced by an amount equal to any other benefit paid to that person under this Regulation in respect of the former member to whom that person was married.

Continued
entitlement

- (9) If a pension became payable under this section to a former spouse or a child of a former member before this section came into force, the spouse or child shall, if otherwise entitled to receive the pension, continue to be so entitled even though the widow or widower has commenced receiving a pension under subsection (6).

CONDITIONS APPLICABLE TO SURVIVOR BENEFITS

Duration of
benefit

- 15.2** (1) A pension payable to a person under section 15 or 15.1 is payable monthly beginning the first day of the month following the month in which the person becomes entitled to the pension and is payable,

- (a) to a widow or widower until her or his death; or
- (b) to a dependent child until the earlier of the child's death and the end of the child's dependent child benefit period.

Pension payable
to disabled child

- (2) A child of a deceased member who is determined by the president, on the advice of a legally qualified medical practitioner appointed by the Board, to be totally disabled before the age of twenty-one years shall be deemed for the purposes of this section to be under the age of nineteen years during the continuation of total disability.
- (3) In subsection (2), "totally disabled" means that the child is afflicted by mental or physical infirmity that has rendered the child incapable of supporting himself or herself and "total disability" has a corresponding meaning, but total disability shall be considered not to exist,
- (a) during any period in which the child engages in any occupation for compensation or profit other than an occupation associated with a rehabilitation or workshop program approved by the president; or
 - (b) where the disability results from wilfully self-inflicted injury or the commission or attempted commission by the child of an indictable offence under the *Criminal Code*, (Canada) or the engagement by the child in an unlawful occupation.

Children's portion
of widow's or
widower's
pension payable
to whoever has
custody

- (4) Despite clause 15(2)(a) or 15.1(2)(a), if at the time of the member's death the widow or widower of the member does not have custody, care and control of any surviving child of the deceased member, the increase in pension payable to the widow or widower in respect of children of the member as provided in clause 15(2)(a) or 15.1(2)(a) shall be paid to the person or agency who most recently had custody, care and control.
- (5) For the purposes of sections 15 and 15.1, if a pension or other benefit is payable to a child of a deceased member under the age of eighteen years or a disabled child referred to in subsection (2), payment may be made to the person or agency having custody, care and control of the child, or if there is no such person or agency to the person or agency named by the president.
- (6) The surviving parent of a child shall, in the absence of any evidence to the contrary, be deemed to be the person having custody, care and control, except where the child is living apart from the parent.

Unlocatable
widow, widower,
child or
beneficiary

- (7) If a widow, widower, child or beneficiary of a deceased member cannot be found, and the president is satisfied that reasonable efforts have been made to find them and at least one year has passed since the member's death, the Board may, despite any other provision of this Regulation, direct that any benefit that would be payable under this Regulation if the widow, widower, child or beneficiary had predeceased the member be paid to the person who would be entitled to receive the benefit in those circumstances, on such conditions as the Board directs.

Subsequent
locating

- (8) If a widow, widower, child or beneficiary referred to in subsection (7) is subsequently found and a claim is made for any benefit payable under this Regulation, the Board may direct that the benefit, reduced by the amount actually paid under subsection (7), be paid to the widow, widower, child or beneficiary, as the case may be.

If widow / widower /
beneficiary not
entitled to a benefit
or refuses a benefit

- (9) The president may direct that a benefit be paid in accordance with this Regulation as if the widow or widower or the member's beneficiary, as the case may be, had predeceased the member if a benefit would otherwise have been payable under section 15 or 15.1 to the widow or widower of a deceased member but the president is satisfied,
 - (a) that the person is not entitled to receive the benefit by virtue of a judicial decree or a separation agreement or other contractual arrangement between the person and the member that has been received by the president before any payment of the benefit is made to the person; or

(b) that the person, or, where applicable, the member's beneficiary, has refused to accept the benefit.

(10) If the benefit referred to in subsection (9) is a pension and the president is satisfied that the person is not entitled to receive the pension by virtue of a judicial decree, separation agreement or other contractual arrangement that is received by the president after payment of the pension is commenced, the president may direct that, thereafter, the pension or any other benefit be paid in accordance with this Regulation as if the person had died on the date the judicial decree, separation agreement or other contractual arrangement was received.

Retroactive application - pension does not cease on remarriage

(11) Upon the application of any widow or widower whose pension under section 15 or 15.1 ceased by reason of her or his remarriage before the 29th day of September, 1981, the Board shall recommence the pension as of the 1st day of July, 1984.

(12) The pension referred to in subsection (11) shall be recommenced in a monthly amount equal to the amount that would have been paid to the widow or widower on the 1st day of July, 1984 as if the pension had not been terminated.

(13) If a pension became payable under section 15 or 15.1 to the child of a former member upon the remarriage of the widow or widower of the former member before the 29th day of September, 1981, the child shall, if otherwise entitled to receive the pension, continue to be so entitled despite the recommencement of the pension to the widow or widower under subsection (12).

Retroactive application - increase to 60% widow / widower pension

(14) Any person receiving or entitled to receive a pension under section 15 or 15.1 on the 1st day of January, 1988 shall have his or her pension recalculated as if this Regulation, as it read on the 1st day of January, 1988, had been in effect on the date of death of the former member whose pension or pension entitlement was the basis of calculation of the pension or pension entitlement of the person, but the recalculated pension shall be payable only from and after the 1st day of January, 1988.

DEFERRED PENSIONS

Entitlement	16. (1) If a member ceases to be an employee or councillor of an employer before the member's normal retirement date for reasons other than the member's entitlement to a benefit under section 14 or the member's death, the member is entitled to receive a deferred pension.
When payable	(2) A deferred pension under this section is payable to a member for the member's life commencing on the first day of the month next following the member's normal retirement date if the member is then living.
Calculation	(3) The annual amount of deferred pension payable to a member under this section shall be calculated in the manner prescribed in section 13.
Alternatives - early retirement benefit and termination benefit	(4) A member entitled to a deferred pension under this section may in lieu thereof elect to the extent permitted therein to receive a benefit under section 17, subsection 18(4), section 19 or section 25.
Joining credited service if member becomes active again	(5) Despite subsection (2), where a member who has not made an election under subsection (4) is once again required to become a member under clause 8(1)(b) or (c) or subsection 8(9), the member shall cease to be entitled to receive the deferred pension under this section.
Inflation increases	<p>(6) Despite subsection (3), if on the 1st day of December of the year prior to an adjustment year a member is entitled to a deferred pension and on the 1st day of January of that adjustment year continues to be so entitled, the deferred pension of the member shall be increased on the 1st day of January of the adjustment year by the inflation adjustment in the manner prescribed in subsection 21(5).</p> <p>(7) Despite subsection (3), if on the 1st day of December of a year prior to an adjustment year a member is entitled to a deferred pension and on the 1st day of January of that adjustment year,</p> <p>(a) the member is entitled to a pension; or</p> <p>(b) the member's spouse or children are entitled to a pension in respect of the deceased member,</p> <p>the pension referred to in clause (a) or (b) shall be increased on the 1st day of January of the adjustment year by the inflation adjustment in the manner prescribed in subsection 21(5) using the date the member became entitled to a deferred pension as the commencement date of the pension which is to be increased by the inflation adjustment.</p>

One time inflation
increase -
91/01/01 (75%)

(8) Despite subsection (3), if on the 1st day of October, 1989 a member was entitled to a deferred pension and on the 1st day of January, 1991 continues to be so entitled, the deferred pension of the member shall be increased on the 1st day of January, 1991 by the inflation adjustment as defined in subsection 22(2).

(9) Despite subsection (3), if on the 1st day of October, 1989 a member was entitled to a deferred pension and on the 1st day of January, 1991,

(a) the member is entitled to a pension; or

(b) the member's spouse or children are entitled to a pension in respect of the deceased member,

the pension referred to in clause (a) or (b) shall be increased on the 1st day of January, 1991 by the inflation adjustment, as defined in subsection 22(2), that would have been applicable had the member continued to be entitled to a deferred pension on the 1st day of January, 1991.

YMPE increased
by inflation
increases

(10) For the purposes of subsection (3), any increase to a member's deferred pension under subsections (6), (8) and (9) shall be deemed to apply to the amount of the reduction referred to in subsection 13(5) which occurs when the member becomes entitled to a pension under the *Canada Pension Plan* that is unreduced for early retirement.

EARLY RETIREMENT PENSIONS

Eligible service

17. (1) In this section, "eligible service" means the service of a member with an employer eligible to participate in the System that is not credited service.

Pension payable
within 10 years of
NRA

(2) If a member ceases to be an employee or councillor of an employer participating in the System within the ten year period before the member's normal retirement age for reasons other than his or her death, the member may elect, in lieu of a deferred pension under section 16, to receive an early retirement pension.

May go from
waiver to early re-
tirement pension

(3) If a member is accruing credited service under subsection 14(3), the member may, within the ten year period before his or her normal retirement age, elect, in lieu of continued accrual of the credited service, to receive an early retirement pension.

When effective	<p>(4) An early retirement pension under this section is payable to the member for life commencing, in the case of an election under subsection (3), on the first day of the month following the month in which the election is received in the offices of the Board and, in the case of an election under subsection (2), on the first day of the month following the month in which,</p> <p>(a) the member ceases to be an employee or councillor if written notice of the election is received in the offices of the Board within six months after the day he or she ceases to be an employee or councillor; or</p> <p>(b) the election is received in the offices of the Board if written notice of the election is not received within six months after the day he or she ceases to be an employee or councillor.</p>
Unreduced early retirement pension	<p>(5) The annual amount of early retirement pension payable to a member under this section is the annual amount of pension calculated in the manner prescribed in section 13 if, at the date of the early retirement,</p> <p>(a) the sum of the member's age, counted in full years and months, plus credited service and eligible service, counted in full years and months, equals,</p>
90 factor	<p>(i) in the case of a member whose normal retirement age is sixty-five years, at least ninety years; or</p>
85 factor	<p>(ii) in the case of a member whose normal retirement age is sixty years, a sum of at least eighty-five years; or</p>
30 years	<p>(b) the sum of the member's credited service and eligible service counted in full years and months, equals at least thirty years.</p>
No double counting of service	<p>(5.1) For the purposes of determining completed years and months of credited service or eligible service under subsections (5) and (7) a month shall not be counted more than once.</p>
Age calculation date	<p>(6) For the purposes of subsection (5), a member's age shall be calculated as at the last day of the month immediately preceding the commencement of the member's early retirement pension.</p>

5% reduction
factors

- (7) If at the date of early retirement the member is not eligible to receive an early retirement pension under subsection (5), the annual amount of early retirement pension payable to the member under this section is the annual amount of pension calculated in the manner prescribed in section 13 reduced at the rate of 5 per cent multiplied by the least of,
- (a) the number of full years and months by which the member's age is less than the member's normal retirement age, on the date the early retirement pension is to commence;
 - (b) ninety, in the case of a member whose normal retirement age is sixty-five years, or eighty-five, in the case of a member whose normal retirement age is sixty years, minus the sum of the member's credited service and eligible service and the member's age, in full years and months on the date the member's early retirement pension is to commence; or
 - (c) the number of full years and months by which the sum of the member's credited service and eligible service is less than thirty years, on the date the member's early retirement pension is to commence.

Age calculation
date

- (8) For the purposes of subsection (7), a member's age shall be calculated as at the last day of the month immediately preceding the commencement date of the member's early retirement pension.

Deferred status to
early retirement
pension

- (9) Where a member becomes entitled to receive a deferred pension under section 16 and subsequently elects to receive an early retirement pension within the ten year period before his or her normal retirement age, his or her pension shall be calculated in accordance with subsection (5) or (7), whichever is applicable.

Other-than-
continuous full-
time members

- (10) For the purposes of determining completed years and months of credited service and eligible service under subsection (5) and (7), a member employed on other than a continuous full-time basis shall be considered as employed on a continuous full-time basis.

DOWNSIZING BENEFITS

(See also section 26.2)

Type 7 Supplementary Downsizing Agreement	17.1 (1) This section applies if an employer has entered into a supplementary agreement with the Board described in section 26.2.
	(2) An immediate early retirement pension may be payable to a member,
Age 60	(a) if the member is at least sixty years of age; or
80 factor	(b) if the member's age in full years and months, plus his or her credited service and eligible service, in full years and months, equals at least eighty; or
75 factor	(c) during the social contract period, if the age of a member whose normal retirement age is 60 years , in full years and months, plus his or her credited service and eligible service, in full years and months, equals at least seventy-five.
Pension as early as age 50 for NRA 65	(3) The immediate early retirement pension may begin to be paid to the member from the first day of the month following the month in which he or she reaches fifty years of age.
NRA 60- retirement from age 45	(3.1) Despite subsections (2) and (3), for the social contract period, the immediate early retirement pension may begin to be paid to a member whose normal retirement age is sixty years from the first day of the month following the month in which he or she reaches forty-five years of age.
	(3.2) In this section "social contract period" means the period beginning June 14, 1993 and ending March 31, 1996.
Type 7 benefit is the excess over regular early retirement pension	(4) The annual amount of the immediate early retirement pension payable shall be the annual amount of pension calculated in the manner prescribed for a normal retirement pension under section 13 less the annual amount payable to the member as an early retirement pension under section 17.

PAYMENT OF BENEFITS

Pensions are monthly	18. (1) Pensions are payable in equal monthly instalments.
Pensioner option to re-enrol	(2) If a member who is in receipt of a pension becomes a councillor or employee of an employer, the member may elect not to become a member under section 8.

If a pensioner re-enrols ultimate pension is a combination of new and old

- (3) If a member who is in receipt of a pension once again becomes a member under section 8, the payment of the pension shall cease during the period of active membership, and upon recommencement the member's pension shall be recalculated in accordance with section 13, 14 or 17, as the case may be.

Small pensions may be commuted

- (4) Despite any other provision of this Regulation, a member who ceases to be in the service of an employer or the widow or widower or child of such a member who is entitled to a pension or deferred pension, the annual amount of which is less than the amount prescribed in the *Pension Benefits Act*, may elect to receive instead of the pension or deferred pension a lump sum amount that is equal to the commuted value of the pension or deferred pension.

REFUND OF CONTRIBUTIONS BY MEMBERS

Termination of membership

- 19. (1)** If a member, for reasons other than death or retirement, ceases to be an employee or councillor of an employer before normal retirement date, the member may elect to have a refund of contributions made by him or her to the Fund, plus interest less the amount of any benefits that have been paid instead of other benefit entitlements under this Regulation but,

Pre-1987 locking-in - age 45 and 10 years service

- (a) contributions made by the member from the 1st day of January, 1965 to the 31st day of December, 1986, exclusive of contributions referred to in subsections 12(6), 26(14) and 26(16), shall not be refunded if the cessation occurs after the member has attained the age of forty-five years and has completed ten years of continuous service with the employer; and

Post-1986 locking-in 2 years membership

- (b) contributions made by the member on or after the 1st day of January, 1987 exclusive of contributions referred to in subsection 12(6), shall not be refunded if the cessation occurs after the member has completed two continuous years of membership in the System.

50% rule (post-1986)

- (2) Despite any other provision in this Regulation, if a member dies, retires or otherwise ceases to be an employee or councillor, the member, or the member's designated beneficiary, or estate if there is no designated beneficiary, as the case may be, is entitled to a refund equal to the sum of contributions made by the member under subsections 10(2.1), 10(5) and 26(6) since the 1st day of January, 1987, plus interest, minus one-half the commuted value of the pension which the member has earned in respect of these contributions.

Member contribu-
tion interest

- (3) For the purposes of this section, interest on a contribution shall be calculated at the rate of 3 per cent per annum up to the 31st day of December, 1977, 5 per cent per annum up to the 31st day of December, 1986, and thereafter at a rate equal to the average monthly yield in the previous calendar year of five-year personal fixed term bank deposit rates as determined from the Canadian Socio-Economic Information Management (CANSIM) Series B 14045 published monthly in the Bank of Canada Review.
- (4) Despite subsection (3), any person whose written request for a refund under subsection (1) is effective on or before the 31st day of December, 1987, for the purposes of this section, interest on a contribution shall be calculated at the rate of 6.5 per cent per annum in respect of 1987.
- (5) For the purposes of this section, interest shall be calculated in a manner consistent with the requirements of the *Pension Benefits Act*.

UNION GRIEVANCE

Member
reinstatement

20. (1) Where a member ceases to be an employee of the employer, receives a refund of contributions plus interest from the Fund, commences a grievance or other legal proceeding for wrongful dismissal and, as a result of the grievance or other legal proceeding, is reinstated as an employee of the employer, the member may elect to pay the amount of the refund received together with interest thereon at a rate set by the Board on the advice of its actuary and thereby re-establish credited service for the period of time to which the refund is applicable and the member shall recommence contributing to the Fund from the time of reinstatement as an employee in accordance with subsection 10(1).

No refund if
process begun

- (2) If a member ceases to be an employee of the employer and applies for a benefit under this Regulation and the president is aware that the employee has commenced or will be commencing a grievance or other legal proceeding seeking the employee's reinstatement, the president shall delay the payment of the refund until a decision has been made with respect to the grievance or proceeding as to whether the employee will be reinstated or not.
- (3) Subsection (2) does not apply if the member transfers directly to the service of another employer which has elected to participate in the System or elects a transfer under subsection 25(6).

ADJUSTMENT OF PENSIONS UNDER PAYMENT

- CPI measurement period **21.** (1) In this section, the inflation increase for any adjustment year means the percentage increase of the Consumer Price Index for Canada for September of the previous year over the Consumer Price Index for Canada for September of the year which is two years prior to the adjustment year.
- 70% guaranteed (1.1) The inflation adjustment for any adjustment year is 70 per cent of the inflation increase for that year.
- Maximum adjustment of 6% (1.2) The inflation adjustment in excess of 6 per cent in any adjustment year shall be added to the inflation adjustment of the subsequent adjustment year.
- No negative adjustment (1.3) The inflation adjustment in any adjustment year shall not be less than zero.
- 30% ad hoc 1994.01.01 (1.4) Despite subsection (1.1), the inflation adjustment for 1994 is 100 per cent of the inflation increase for that year.
- (2) In this section, and for the purposes of subsections 14(7), (8), 16(6) and (7), “**adjustment year**” means a year in which pensions are increased by the inflation adjustment.
- Disability waiver earnings increases limited to Average Industrial Wage increases (3) Despite the definition of inflation adjustment, the inflation adjustment for the purposes of subsections 14(7) and (8), shall equal the lesser of the inflation increase for that year and the percentage increase in the monthly average of the average weekly wages and salaries of the Industrial Aggregate in Canada as published by Statistics Canada, for the same period, as the inflation increase is determined.
- 70% formula effective January 1, 1992 (4) The year 1992 and subsequent years shall be considered adjustment years.
- How increase is applied (5) The pension payable to a person during his or her lifetime shall be determined in accordance with this Regulation or a predecessor thereof and,
- (a) where a pension is payable to a person on the 1st day of December of the year prior to an adjustment year in respect of a pension that was being paid on the 1st day of December of the year which is two years prior to that adjustment year, the pension payable to the person on the 1st day of January of that adjustment year shall be increased by the inflation adjustment; and

Increase pro-rated
if on pension less
than 14 months

- (b) where a person started receiving a pension during the period from the 1st day of January to the 1st day of November of the year prior to an adjustment year and it is not a pension payable to the person in respect of a pension that was being paid on the 1st day of December of the year which is two years prior to that adjustment year to a person who dies after that day, the pension payable to the person on the 1st day of January of the adjustment year shall be multiplied by the factor in Column 2 of the Table opposite the pension's commencement date in Column 1.

TABLE
COMMENCEMENT DATE OF PENSION FACTOR

Column 1	Column 2
January 1	0.9167
February 1	0.8333
March 1	0.7500
April 1	0.6667
May 1	0.5833
June 1	0.5000
July 1	0.4167
August 1	0.3333
September 1	0.2500
October 1	0.1667
November 1	0.0833

Member dies
during adjustment
year

- (6) In an adjustment year, where a person who would have been entitled to an inflation adjustment under subsection (5) dies before the 1st day of January of that adjustment year, the pension payable in respect of that deceased person to another person or persons on the 1st day of January of that adjustment year shall be increased on that date by the inflation adjustment that would have applied under subsection (5) in respect of the deceased person had he or she not died.

- (7) *Revoked. Referred to one-time increase.*

Effective
January 1, 1991
a retroactive
increase equal to
75% of the accu-
mulated CPI
increase was
granted to pensions,
deferreds and
waivers

22. (1) In this section, “inflation increase” means the percentage increase of the September, 1989 Consumer Price Index for Canada, over,
- (a) where a pension was payable on the 1st day of October, 1989 to a person, the Consumer Price Index for Canada for the month in which the person's pension commenced;

- (b) despite clause (a), where a pension was payable on the 1st day of October, 1989 in respect of a deceased person to a spouse or child of that person, the Consumer Price Index for Canada for the earlier of the month in which the spouse's or child's pension commenced or the month in which the deceased person's pension had commenced, as the case may be;
 - (c) where on the 1st day of October, 1989 a member was entitled to a deferred pension under section 15, the Consumer Price Index for Canada for the month in which the member became so entitled; or
 - (d) where on the 1st day of October, 1989 a member was entitled to a disability benefit under subsection 14(3), the Consumer Price Index for Canada for the month in which the member became so entitled.
- (2) For the purposes of this section, the inflation adjustment with respect to any person is 75 per cent of the inflation increase minus the total per cent increase to the 31st day of December, 1990, under subsection 14(7), 16(6) or section 21 or a predecessor thereof, applicable to a pension, deferred pension or in respect of a disability benefit under subsection 14(3) payable to such a person, as the case may be.
- (3) Despite subsection (2), the inflation adjustment shall not be less than zero.
- (4) The pension payable to a person during his or her lifetime shall be determined in accordance with this Regulation or the predecessor thereof in force at the commencement of the pension to the person and,
- (a) where a pension is payable to a person on the 1st day of January, 1991 in respect of a pension that was being paid on the 1st day of October, 1989, the pension payable to the person on the 1st day of January, 1991 shall be increased by the inflation adjustment described in subsection (2); and
 - (b) where a person who would have been entitled to an increase under clause (a) dies before the 1st day of January, 1991, the pension payable in respect of that deceased person to another person or persons on the 1st day of January, 1991 shall be increased on that date by the inflation adjustment that would have applied under clause (a) in respect of the deceased person had he or she not died.

Purchased
additional pension
by employer

- 23.** (1) Where, in the case of an employer who has elected to participate in the System,

- (a) a member;
- (b) a retired employee who was not a member; or
- (c) the widow, widower or child of a person mentioned in clause (a) or (b),

has commenced to receive a pension under section 13, 14, 15, 15.1, 17 or 17.1 or under an approved pension plan, the Board, upon entering into an agreement with the employer and upon receipt of an amount of money sufficient to provide for payment of such additional amount of pension, as the Board upon the advice of the actuary may determine, shall pay the additional amount of pension to such member, retired employee, widow, widower or child as the case may be.

- (2) A pension payable under subsection (1) is subject to the conditions for early retirement pensions and increases to pensions under the *Income Tax Act*, (Canada) and its Regulations.

PRIOR SERVICE PENSIONS

No longer in use. Basically ceased writing new ones when the Supplementary Agreements came into place, although theoretically they could be written up to 1977.12.31. Were vehicles to provide past service pensions used primarily to pick up past service benefits when an approved plan merged with OMERS. All were fixed amount of pension or money purchase type agreements. Rolled into the supplementary program 1983.01.01 (as Type 2s)

- 24. (1) Every employer who has elected to participate in the System may, by by-law or resolution, enter into or amend an agreement with the Board for the payment of benefits from the Fund in respect of the prior service of employees or councillors of the employer who have become members and every such by-law or resolution shall be filed with the president, but no such agreement shall be entered into after the 31st day of December, 1977.
- (2) The contributions to the Fund in respect of a member under a prior service agreement may be paid by the member or by the employer or by both of them, and when such a contribution is paid into the Fund, the employer shall stipulate the amount therein that is or is deemed to be a contribution by the member.
- (3) The form and content of a prior service agreement shall be determined by the Board and shall provide,
 - (a) for the payment of pension benefits to or with respect to each member covered thereunder;
 - (b) that the payment of such benefits are subject to the same terms and conditions as are prescribed for benefits in respect of contributory earnings in sections 13 to 18; and

- (c) for the payment of refunds of prior service contributions and interest under the same terms and conditions as are prescribed for refunds of contributions under section 19.
- (4) The factors to be used in calculating the amount of pension to be paid in respect of a contribution made under a prior service agreement shall be the factors approved therefor by the Board on the advice of the actuary at the time that the contribution was paid into the Fund.
- (5) The rate of interest on a contribution made under a prior service agreement shall be as determined under the provisions of the agreement.
- (6) The maximum annual pension payable to a member under a prior service agreement is,
 - (a) the amount of pension prescribed in subsection 117(3) of the *Municipal Act* computed on the annual rate of earnings of the member at the date the agreement is entered into;
 - (b) the annual amount of pension payable to the member under the agreement in respect of the contributions and interest at the member's credit under an approved pension plan and transferred to the member's credit under the agreement; or
 - (c) the annual amount of pension that would have been payable at the member's normal retirement age to the member under an approved pension plan if the contributions and interest at the member's credit thereunder had not been transferred to his credit under the agreement,

whichever is the largest amount, less any pension payable to the member under an approved pension plan.

- (7) Every agreement entered into under subsection (1) before the 31st day of December, 1982 shall be terminated on that date and the benefits and funds held under the agreement shall be transferred to a supplementary agreement under section 26 in a manner satisfactory to the Board on the advice of the actuary, but under no circumstances shall the benefit of a member be diminished as the result of such transfer.

TRANSFERS

25. (1) If before a pension has commenced under this Regulation, a member,

Transfer to another
public sector
pension plan

- (a) ceases to be an employee as a result of the designation by the Lieutenant Governor in Council of the Board, commission or foundation by which he or she is employed by a board, commission or foundation to which the *Public Service Pension Act* applies, or
- (b) ceases to be an employee or a councillor for any other reason, and subsequently is employed by,
 - (i) the civil service of Canada or of any province of Canada or of the Yukon Territory or the Northwest Territories,
 - (ii) the civic service of any municipality or the staff of any local board in any province of Canada or in the Yukon Territory or the Northwest Territories,
 - (iii) any board, commission or public institution established under any Act of Canada or of any province of Canada or under any Ordinance of the Yukon Territory or the Northwest Territories, or
 - (iv) a corporation, institution or other organization where the member and other employees of that corporation, institution or organization are able to participate in any fund or plan maintained to provide pension benefits for persons employed by one or more of the bodies referred to in subclauses (i), (ii) and (iii),

the president shall, on written request of the member, authorize the transfer from the Fund of a sum of money, that is the higher of the commuted value or the present value, calculated as of the date of transfer, of the member's pension entitlement under this Regulation, exclusive of any pension entitlement under subsections 12(6), 26(14) and 26(16), to any fund or plan that the member is entitled to join as a result of clauses (a) and (b).

Conditions of
transfer out - some
PBA, some ITA,
some OMERS

- (2) Subsection (1) does not apply unless,
 - (a) the requirements of the *Pension Benefits Act* are satisfied;

	(b) the fund or plan to which the transfer is to be made permits the transfer;
	(c) the amount transferred is used toward the provision of pensionable service for the member in the fund or plan to which the transfer is to be made;
New plan can't provide more than old plan	(d) the pensionable service does not exceed the member's credited service or, if it does, the amount transferred will be reduced accordingly but to not less than the commuted value of the member's pension entitlement;
	(e) the fund or plan to which the transfer is to be made provides a reciprocal transfer arrangement; and
50% rule repayment	(f) the member has repaid to the Fund any amount received under subsection 19(2) and interest under subsection 19(3).
Transfer to OMERS	(3) If a person employed by an employer mentioned in clause (1)(b) ceases to be so employed and becomes a member, the president shall, on written request of the member, accept a transfer to the Fund from another pension fund or plan.
Present value comparison	(4) The sum of money transferred under subsection (3) shall be compared to the present value of a pension under this Regulation, calculated as of the date of transfer, based on credited service equal to the member's pensionable service in the transferring fund or plan and, (a) if the sum of money transferred is equal to the present value, the member shall receive the full credited service entitlement; or
Member may make up any shortfall	(b) if the sum of money transferred is less than the present value, the member shall receive a credited service entitlement reduced proportionately unless there is a contribution made to the Fund, within six months of the member being informed of the shortfall, of all or part of the difference between the present value and transferred amount to establish all or part of the credited service shortfall.
	(5) A transfer under subsection (3) shall not be accepted if,
Transfer in conditions	(a) it would result in a member's credited service entitlement being greater than the member's pensionable service under the transferring plan; or

(b) it would not be subject to the requirements of the *Pension Benefits Act*.

Board may enter into Reciprocal Transfer Agreements

(6) The Board may enter into an agreement with the person authorized for the purpose under a pension or superannuation plan established by or for any body referred to in clause (1)(b) or administered under section 16 of the Act, to transfer to or from the Fund a sum of money in respect of a member to whom subsections (1) and (2) apply and any such agreement shall prescribe the basis for computing the amount of money to be transferred out of the Fund and the benefits to be granted in respect of money transferred into the Fund as determined by the Board on the advice of the actuary.

A PSPA may arise and would need certification

(6.1) Despite subsections (3), (4) and (6), if as a result of a transfer a past service pension adjustment as defined under the *Income Tax Act*, (Canada) arises in respect of the past service of the member which occurs after 1989, no benefit shall be payable or funded in respect of this past service pension adjustment until it is certified under the *Income Tax Act*, (Canada).

On termination prior to 10 years before NRA a member may transfer pension commuted value to a locked-in retirement vehicle

(7) Despite this section and subject to any limitations under the *Pension Benefits Act*, a member who is entitled to a deferred pension under section 16 and who is not eligible for an early retirement pension under section 17 may elect, in satisfaction of all rights under this Regulation, to transfer the commuted value of the deferred pension, less the sum of any benefits paid to the member under this Regulation, except under subsection 19(2), to any registered pension plan, to any retirement savings arrangement or to any provider of a life annuity in accordance with and subject to the requirements of the *Pension Benefits Act*.

Commutated value transfer right does not apply to "voluntary" contributions or benefits

(8) Subsection (7) does not apply in respect of any entitlement under subsections 12(6), 26(14) and 26(16).

SUPPLEMENTARY BENEFITS

Employer may enter into a Supplementary Agreement for all or any class of employees

26. (1) Every employer who has elected to participate in the System may, by by-law or resolution filed with the president, enter into or amend an agreement with the Board for the payment of supplementary benefits from the Fund in respect of all or any class of the employees of the employer, or in respect of councillors of the employer, who are or become members and for this purpose employees to whom a bargaining agreement applies shall constitute a class of employees.

If all prior service is covered then optional service maybe added	(2) If an employer has entered or enters into an agreement under subsection (1) to provide supplementary benefits for all prior service for councillors, employees or any class of them, the employer may provide in the agreement for optional service or any part of it for the councillors, employees or class.
Optional Service - ITA Restriction	(2.1) Despite subsection (2), optional service which occurs on or after the 1st day of January, 1992, may be provided for by an employer only if it is eligible service under the <i>Income Tax Act</i> , Canada.
Supplementary Agreements - form and content set by Board	(3) The form and content of a supplementary agreement shall be determined by the Board but in any event each such agreement shall provide that,
Board determines contributions	<p>(a) the Board, on the advice of the actuary, shall determine the amount of the contributions to be paid to the Fund and the manner of payment of contributions to provide the supplementary benefits under the agreement, and</p> <p>(b) section 19 applies to the contributions paid by a member under a supplementary agreement.</p>
Type 1 agreements "rolled into" basic plan	(4) Where a supplementary agreement in force on the 31st day of December, 1982 provides for a pension benefit of a member to be calculated in the manner as prescribed in section 13 substituting prior service for credited service, the prior service of the member shall be deemed to be credited service.
Type 2 agreements "rolled into" basic plan	(5) A supplementary agreement in force on the 31st day of December, 1982 that provides a fixed amount of pension benefit payable to the member on the member's normal retirement date shall be deemed to provide that the fixed amount of pension shall be paid on the same terms and conditions and coincident with the payment of a pension to the member under section 13, 14, 15, 15.1, 16 or 17 and that the fixed amount of such pension may be increased from time to time by the Board on the advice of the actuary.
Type 1 Supplementary Agreements - prior service	(6) An employer may enter into a supplementary agreement or may amend an agreement referred to in subsection (5) to provide for a full pension benefit or a portion of a pension benefit of a member calculated in the manner as prescribed in section 13 substituting prior service for credited service, and,

- | | |
|--|--|
| Full Type 1 | (a) if the agreement provides for a full pension benefit, the prior service of the member shall be deemed to be credited service; and |
| Partial Type 1 | (b) if the agreement provides for a portion of the pension benefit, the portion shall be paid under the same terms and conditions and coincident with the payment of a pension to the member under section 13, 14, 15, 15.1, 16, or 17. |
| New form of Supplementary Agreements imposed as of 1983.01.01 | (7) A supplementary agreement in force on the 31st day of December, 1982 shall be deemed to be amended as of the 1st day of January, 1983, until such time as it is amended in fact, to accord with the form and content of such agreement as determined by the Board under subsection (3). |
| Type 3 supplementary - permanent partial disability. Also limits that no other early retirement benefits may be provided under a Supplementary Agreement | (8) An early retirement pension shall be payable to a member under a supplementary agreement only if the member is declared by the employer to be unable to perform the duties of his or her employment due to mental or physical incapacity, and only to the extent that the pension exceeds any amount payable to the member under section 17. |
| ITA restrictions | (8.1) A pension payable to a member under subsection (8) is subject to the conditions for early retirement pensions under the <i>Income Tax Act</i> , (Canada) and its Regulations. |
| 30 year provision was rolled into the basic plan 1992.01.01 | <p>(9) <i>Revoked. Referred to the Type 3 30 year provision.</i></p> <p>(10) <i>Revoked. Referred to the Type 3 30 year provision.</i></p> <p>(11) Where optional service is provided for under a supplementary agreement a member may establish credit for any or all such service if the member elects to purchase it and pays to the Board the cost of the service on terms satisfactory to the employer and the Board.</p> |
| Pre-1992 cost of optional service. There was a minimum member contribution | <p>(12) For the purposes of subsection (11) the cost of the service for which credit is established shall be,</p> <p>(a) for a member whose normal retirement age is sixty-five years, 11 per cent; or</p> <p>(b) for a member whose normal retirement age is sixty years, 13 per cent,</p> <p>of the annual rate of salary authorized to be paid to the member,</p> |

- (c) if the member's election is made within one year from the date the member becomes entitled to elect under the agreement, on the most recent date on which the member became employed by the employer; or
- (d) if the member's election is made after one year from the date the member becomes entitled to do so under the agreement, at the time the member makes the election,

multiplied by the member's years or part years of optional service together with interest as determined by the Board on the advice of the actuary on the amount so calculated, compounded annually from the most recent date on which the member became employed by the employer to the first day of the year in which the member becomes entitled to make an election for optional service.

After 1991 the total optional service cost equals the present value and may be shared by members and employers in any way they see fit

(12.1) Despite subsection (12), and for the purposes of subsection (11), the cost of a benefit provided in respect of optional service pursuant to agreements entered into or amended on or after the 1st day of January, 1992 shall equal the present value of that benefit.

(12.2) The cost of a benefit established under subsection (12.1) shall be paid to the Fund by a member or by an employer and may be shared by them in such manner as they may agree.

Prior service benefits payable from OMERS are reduced by any approved plan benefits in respect of the same periods of service

(13) Where a member entitled to receive a supplementary benefit under subsection (2), (4) or (6) in respect of prior service is entitled to receive a pension benefit under a previous pension plan or fund in respect of the same period of service, the annual amount of the pension benefit under the previous pension plan or fund, as established on the later of the 31st day of December, 1982 or the effective date of an agreement under subsection (1), shall be deducted from any supplementary benefit payable under those subsections and in the case of optional service, a reduction shall be made in the amount payable by the member under subsection (11) of an amount determined to be appropriate by the Board on the advice of the actuary.

Prior to 1983, under the 30 year Type 3 benefit members could be required to make a contribution. At 1983.01.01 these were discontinued with the 90 factor introduction, and refunded or left for a fixed amount of pension.

- (14) Member contributions towards the provision of a benefit under subsection (8) shall cease to be made to the Fund under a supplementary agreement as of the 31st day of December, 1982 and the amount of accumulated contributions of a member plus interest thereon at a rate determined by the Board shall be placed to the credit of the member in the Fund to provide a benefit to be determined by the Board on the advice of the actuary to be paid to or in respect of the member in addition to and under the same terms and conditions as any other benefit payable to or in respect of the member under this Regulation, provided however that, on or after a date to be designated by the Board, the member may elect to revoke the member's credit in the Fund and have the amount of the credit transferred to a registered retirement savings plan of the member.

- (15) *Revoked. Referred to the Type 3 30 year provision.*

Prior to 1978 the 5 year final average earnings (FAE) pension was a supplementary benefit, sometimes requiring member contributions. When the FAE benefit was put in the basic plan previous member contributions were refunded or left as a fixed pension amount.

- (16) Member contributions that remain in the Fund as a result of the elimination of supplementary benefits that were duplicated by benefits otherwise payable under this Regulation with effect from the 1st day of January, 1978, plus interest calculated in accordance with section 19, shall be retained to provide a benefit to be determined by the Board on the advice of the actuary to be paid to or in respect of the member in addition to and under the same terms and conditions as any other benefit payable to or in respect of the member under this Regulation and the Board may increase such benefit from time to time on the advice of the actuary.

If an approved plan merges with OMERS and it has different benefits, these can be continued as a Supplementary Agreement for those members affected.

- (17) Despite this section, in the event that employees of an employer who were members of an approved pension plan become members of the System on or after the 1st day of January, 1990, the employer may enter into an agreement with the Board, under subsection (1), to continue to provide to the employees any benefits to which they were entitled under the approved pension plan but which are not provided under this Regulation.

Optional Service and PSPA certification

- (18) Despite anything in this section, no benefit shall be payable or funded in respect of a member's prior or optional service which occurs after 1989 until certification of the member's past service pension adjustment under the *Income Tax Act*, (Canada).

MEMBER BUY-BACK OF SERVICE

Member pays all	26.1 (1) Despite section 26, a member may elect to purchase a benefit in respect of all or part of the member's prior service or optional service subject to any conditions determined by the Board on the advice of the actuary.
ITA limitation	(2) Despite subsection (1), optional service which occurs on or after the 1st day of January, 1992 may be purchased by a member only if it is eligible service under the <i>Income Tax Act</i> , (Canada).
Cost is present value	(3) For the purposes of subsection (1), the cost of a benefit provided in respect of prior service or optional service shall equal the present value of that benefit.
Benefit and cost offset by approved plan benefit for the same period	(4) If a member who has elected to purchase a benefit under subsection (1) is entitled to receive a benefit under a previous pension plan or fund in respect of the same period of service, the annual amount of the benefit under the previous pension plan or fund, as established on the date of election to purchase a benefit under subsection (1), shall be deducted from any benefit payable under this Regulation in respect of the period of prior service or optional service and the cost of the benefit under subsection (2) shall be reduced accordingly.
Benefit and cost offset by any benefit under this Regulation for the same period	<p>(5) If a member who has elected to purchase a benefit under subsection (1) is entitled to receive a benefit under section 26 in respect of the same period of service,</p> <p>(a) for the purposes of determining the benefit cost under subsection (3) the annual amount of benefit payable under section 26, as established on the date of election to purchase a benefit under subsection (1), shall be deducted from any benefit payable under this Regulation in respect of the period of prior service or optional service; and</p> <p>(b) when a benefit becomes payable under this Regulation in respect of the period of prior service or optional service the annual amount of benefit payable under section 26 shall be deducted from the benefit purchased under subsection (1).</p>
Buy-back increases pension paid	(6) Any benefit purchased under subsection (1) is an increase to the pension payable under section 13 up to the maximum allowed under that section.

If the employer, by a Supplementary Agreement, covers the same period of service as the member buy-back then member contributions are refunded

PSPA certification

- (7) Despite subsection 10(4), if any employer provides a benefit under section 26 in respect of the same period of service for which a member has purchased a benefit under subsection (1), any contributions made by the member under this section to purchase a benefit in respect of that period of service shall be refunded to the member, together with interest at the rate established in subsection 19(3).
- (8) Despite anything in this section no benefit shall be payable or funded in respect of a member's prior or optional service which occurs after 1989 until certification of the member's past service pension adjustment under the *Income Tax Act*, (Canada).

DOWNSIZING AGREEMENT

(See also 17.1)

Downsizing supplementary (Type 7)

- 26.2** (1) In the circumstances described in subsection (2), an employer may enter into a supplementary agreement with the Board under subsection 26(1) to provide immediate early retirement pensions to members.

Conditions to agreement

- (2) The employer must have approved, by resolution, a downsizing program that meets the following requirements:
 - 1. It was introduced as a result of financial pressures or constraints.
 - 2. It aims to reduce the financial obligations of the employer by reducing the number of employees or the number of hours worked by employees.
 - 3. It includes early retirement guidelines and a restructuring plan setting out the manner in which the employer intends to carry out the downsizing.

Each agreement up to 2 years in length

- (3) The supplementary agreement must provide for an eligibility period during which eligible members may elect to receive an immediate early retirement pension under the agreement.
- (4) The eligibility period must expire not later than two years after the supplementary agreement comes into force.

5% reduction factors - grow-in provision

- (5) The supplementary agreement may provide for a reduction in pension in the manner provided in subsection 17(7), with necessary modifications.

Allows NRA 65 members to retire as early as age 50 (see also 17(3))

Last day to enter into a Type 7 agreement

- (6) Subsections 17(2) and 26(8) do not apply with respect to an immediate early retirement pension payable under the supplementary agreement.
- (7) An employer is not eligible to enter into a supplementary agreement described in this section after the 31st day of March, 1995.

RETIREMENT COMPENSATION ARRANGEMENT

- 26.3** (1) Every member is entitled to supplementary benefits in respect of the amounts, if any, calculated as a normal retirement pension for the member under section 13, that would exceed the limit provided under subsection 13(8).
- (2) Supplementary benefits provided under subsection (1) shall be funded through a retirement compensation arrangement under the *Income Tax Act*, (Canada).
 - (3) The Board, on the advice of the actuary, shall determine the amount of the contributions to be paid to the Fund and the manner of payment of contributions to provide the supplementary benefits.

PROOF OF AGE

- 27.** The president may from time to time require such proof of the age, retirement, employment, marital status and death of a member, or of a member's widow, widower or children and such proof of the identity of any person as is necessary for the purposes of making a determination under clauses 4(1)(e) and (f).

DESIGNATION OF BENEFICIARY

- 28.** Every member, by filing a notice with the president, may designate a person as the member's beneficiary to receive such sums of money as may become payable to the member's beneficiary under this Regulation and may revoke any such notice and designate another person as the member's beneficiary.

SURPLUS WITHDRAWAL

- | | |
|------------------------------------|---|
| Surplus withdrawal - 50/50 sharing | 29. (1) In the event that surplus is paid from the Fund, whether the Fund continues to operate or is wholly or partially wound up within the meaning of the <i>Pension Benefits Act</i> , the surplus withdrawal shall be shared half by members who are employees and half by employers that have elected to participate in the System under section 7. |
| Surplus distribution - members | (2) The share of the surplus withdrawal referred to in subsection (1) that is attributable to members shall be distributed among them in proportion to the total contributions made by each of them under sections 10, 26 and 26.1 plus interest. |
| Surplus distribution - employers | (3) The share of the surplus withdrawal referred to in subsection (1) that is attributable to employers shall be distributed among them in proportion to the aggregate of the amounts distributable to the employees of each employer. |

MISCELLANEOUS

- | | |
|--|---|
| Wind-up | 30. (1) If the Fund is wound up within the meaning of the <i>Pension Benefits Act</i> , the assets of the Fund shall be used to meet the accrued benefit entitlements of members, former members, and any other persons entitled to a benefit under this Regulation in respect of a member or former member before any other distribution is made. |
| | (2) If the assets of the Fund are insufficient to secure the benefit entitlements in subsection (1), the pension benefits and other benefits shall be reduced in the manner prescribed under the <i>Pension Benefits Act</i> . |
| Adjustments, if necessary to comply with ITA | 31. Despite this Regulation, the benefits payable to or in respect of a member may be reduced or a contribution made by a member or any employer may be returned to the person who made the contribution to the extent necessary to avoid the revocation of registration under the <i>Income Tax Act</i> , (Canada) and the Regulations made under it. |

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